SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, MARCH 28, 2005

8:30 A.M.

(PAGES 3726 THROUGH 3787)

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BY: Official Court Reporter 3726

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Santa Maria, California
Monday, March 28, 2005
8:30 a.m.

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: Good morning.
COUNSEL AT COUNSEL TABLE: (In unison)
Good morning, Your Honor.
THE COURT: I'll say that again. Good morning.
MR. SANGER: Good morning.
THE COURT: Let's see, the moving party here is the People.
MR. SNEDDON: Good morning, Your Honor.
What I would like to do in my presentation this morning is to proceed by setting a little bit about the legal framework for which the discussion on the 1108 motion in particular, and begin with the 1108 motion.
And I think the simplest way to begin with this discussion is the fact that in 1995, the legislature, in enacting Penal Code Section 1108, significantly changed the law in California and the practice of criminal law in California. It's clear from the legislative intent of Section 1108 that it 3728

was a recognition that crimes such as child molestation are secretive, they're serious, children are particularly and uniquely vulnerable, and that oftentimes, and in most cases in fact, it's the credibility of the victim that is at issue. The Supreme Court in Falsetta that upheld Section 1108 against the constitutional attacks made it very clear that these types of crimes are committed in seclusion, without third-party witnesses, and without substantial corroborating evidence. And it's precisely for that reason that the legislature enacted Penal Code Section 1108. Secondly, there was a legislative finding that has been repeated over and over and over again by the courts of this state in recognizing the validity of that particular -- this particular legislative finding; that is, that the willingness to commit sexual offenses is not common to most individuals, and therefore propensity evidence is uniquely probative and necessary in determining the credibility of witnesses. There's a further legislative intent reflected in 1108 that has again been repeatedly confirmed by the courts of this state, and that is that Evidence Code Section 1108 evidence should be liberally admitted. Indeed, cases now recognize that it's established principle that it is presumptive to be admissible in criminal cases. 3729

We feel for this reason that the evidence, and the pro-offer of proof that we've indicated to the Court we intend to present would be in this case, is consistent with the legislative intent and consistent with the judicial interpretation of Section 1108 and be uniquely admissible as to corroborating the victims in this particular case.
Now, in that connection, Your Honor, the Court is in a much better position now than it would have been to hear this motion before trial started because the Court's now had an opportunity to see the testimony and the evidence of Gavin Arvizo, that of the sister and of the brother.
But more importantly, the Court has had an opportunity to hear Mr. Mesereau's opening statement and Mr. Mesereau's cross-examination of the family members in this particular case, and including Gavin Arvizo. There's no question that they have presented squarely the fact that the issue -- that the family's credibility, and Gavin Arvizo's credibility, and in fact indeed the mother's credibility, is central to the defense case, and that is precisely -- precisely the reason that 1108 was enacted.
Pursuant to their theory, I don't think it's been any secret, it's been a scorched-earth process, there's a take-no-prisoners approach to these children and to this mother who is going to testify 3730

in the next couple of weeks. And while this approach is hardly unique, it's hardly unexpected and it's hardly novel, the point is that these are precisely the kind of tactics that the legislature recognized where propensity evidence should be admitted in order to balance the scales in situations where an accused has exhibited propensity to commit similar types of crimes.

Now, I don't intend to go through the offers of proof in detail, because the Court already has the information before it. But I would like to summarize what it is for the Court that we're seeking to admit.

First, we're asking the Court's permission to allow us to have one prior child victim testify to three separate incidents of molestation by the defendant. The molestations are very similar in nature. They involved the genitalia of the kid -- of the child, and they involve instances where -- two instances outside the clothing of the child on a prolonged basis, and a third incident where the child -- where the hand was thrust up inside the pants of the child, onto the skin of the child.

We're seeking to admit no less than five third-party witnesses of inappropriate molestations and touchings by the defendant as to four separate children. Again, the conduct is similar in nature. Some of it is kissing, hugging. And other parts of 3731

it involve, again, insertion of the defendant's hand into the genitalia of the particular children involved.
I think it's noteworthy to bring to the Court's attention, as I will also cover in certain parts of my other presentation to the Court, all of these children are basically between the ages of 10 and 13 at the time that the offenses occurred or were observed by third parties.
Thirdly, there is -- there are some witnesses who have direct observation by third-party witnesses that involve multiple incidents involving the same child. So we not only have witnesses that are multiple, but we have multiple incidents involving observations of the third party.
We have an additional incident -- an additional witness who will testify to incidents involving the defendant with children, four other children, observing the defendant in bed with four other children, and on three of those occasions observing the child and the defendant in bed, and that the child and the defendant's underpants were lying next to the bed.
We have a sixth incident that involves the same child that has already been observed by at least two other witnesses that are on our list to be called as being -- that observed acts of molestation by the defendant. And this witness observed the 3732

defendant licking the head of a child in the
identical manner to that described by Star Arvizo,
as will be described by Janet Arvizo. We think this
is particularly probative in light of the
defendant's contention filed by papers in this court
that this is an example of Janet Arvizo's delusional
state that she saw this, when, in fact, we have
another witness who saw this very conduct occur by
the defendant as to another child about the same age
as Gavin Arvizo.
Lastly, we have two witnesses that will
testify to the fact that the defendant encouraged
children to call him "daddy," children other than
the children in this case, and that he talked about,
with the mother of one of the children, how it was
important that the mother think of him and the
children and them as being all one big family, and
they were like family together. Again, conduct and
statements which have been, to this point in the
trial, alleged to have been uniquely responsible to
the Arvizo family, when, in fact, there's evidence
indicating that the defendant has used this approach
with children and families prior to the commencement
of the trial of this particular case and in other
instances involving families that are not -- have
not have been a party so far.
With regard to the 1108, of course, the
central issue is the balancing of the probative 3733

value versus the substantial undue prejudice to the defendant. I think that it is -- it is important to keep in mind what the courts have said about undue prejudice and what the courts have said about a substantial prejudice, because these are concepts that are unique in the legal profession and they are unique to cases such as this.

And I think the first starting point for us in this regard, Your Honor, is the language that is found in cases that recognize that the unique stigma of a child sexual abuse case, the danger is one that all propensity evidence -- it is the same in all propensity evidence in such trials. It is for this reason that the evidence was previously excluded but is precisely the reason now that it's admitted into evidence.

So simply the fact that it is a child molest prior charge or uncharged offense in and of itself doesn't answer the question as to whether it's prejudicial. In fact, the language that we've quoted to the Court in our moving papers of the Branch court, the Branch case made it very clear that where the conduct of the defendant in the case before the Court and the conduct of the defendant in the charged or uncharged acts is very similar in nature, that that is found not to be what the courts would consider inflammatory or prejudicial under the concept of 1108. 3734

And that is precisely the situation that we have here. The conduct is very similar, if not identical, in many of the instances, and therefore in the balancing of the 352 criteria, under the doctrines of those cases that have analyzed the balancing process, that has not been found one that would cause the Court concern in allowing this evidence to come before a court.

I think it's also important, Your Honor, to recall the language in the Soto case that we cited to the Court with regard to prejudice. And if the Court would allow me, I'd like to read just a little bit from that decision at page 989:

"Prejudice, as contemplated by Section 352, is not so sweeping as to include any evidence the opponent finds inconvenient. Evidence is not prejudicial, as that term is used in Section 352 context, merely because it undermines the opponent's position or shores up that of the proponent. The ability to do so is what makes evidence relevant. The code speaks in terms of undue prejudice. The prejudice referred to in Evidence Code 352 applies to evidence which uniquely tends to evoke an emotional bias against a defendant as an individual which has very little effect on the issues. In applying 352, prejudice is not synonymous with damaging."

I think that's important in this case, 3735

particularly in light of what I've just said about how the Branch case and the Falsetta case and some of the others have applied the principle that when the case is similar in nature and the conduct is similar in nature, that that doesn't rise to be inflammatory under the balancing process.

The second balancing issue for the Court as outlined in the cases is remoteness. This particular case -- in this particular case, at the time that the charges were actually filed two years ago, the incidents involved would have been somewhere between 10 to 12 years prior to this case. We have cited to the Court in our moving papers a number of cases involving remoteness. And of those cases, there are 11 of them that I believe -- at least 11 that have been indicated, been cited to the Court. Some, like Branch, are 30 years old. Seven of the cases involve uncharged prior offenses. Four of the cases involve charged prior offenses where there was either a trial or an admission -- a trial finding of guilt or an admission of guilt. In those cases, we have cases like Frazier, which is 15 and 16 years old. Soto case, uncharged, 20 years old. Davis case, 13 years, uncharged. Branch, 30 years, uncharged. Fitch, the case was seven years, uncharged. Waples, W-a-p-l-e-s, 20 years, uncharged.

And some of the charged ones, again, like 3736

Pierce, they were 23 years old. And Falsetta, they were 14 and 12 years old. And in Britt, the priors were 13 and 22 years old. And in a murder case, where they admitted evidence under 1101 where remoteness was at issue in a murder case, the uncharged crime was 17 years old.

So I think the Court can see that with regard to the remoteness issue, the balance on the scale is far in favor of admissibility of the charges of the uncharged cases and priors that we seek to admit. The cases make it very clear that this is not something that would cause a Court concern in allowing the admissibility of prior uncharged acts.

Now, I think where the problem arises in this area, Your Honor, is with the Harris case. And I think the Court is familiar with the Harris case. It's been cited by both sides. And it is the only published case that we have found that actually deals with a situation where a lower court was reversed on an abuse of discretion where they allowed 1108 evidence in. There are several other cases that reversed, but most of those were for instructional error before the Court came down with guidance as to what instructions to be given to the jury with regard to these particular issues.

But Harris is the only case that I've been able to find and it's the only case that's been 3737

cited by either side where a Judge was reversed on appeal. And I think Harris illustrates the difference here between remoteness and the connection between remoteness and the confusion, which is the third factor that the Court has considered with the jury.

The problem with the Harris case was, it involved a tremendous amount of violence. As you may recall from that case, Your Honor, the victim was attacked. She was mutilated in the genitalia area. She was stabbed multiple times. The knife was left in her body at the time. There was evidence at the time that the defendant, Harris, was found, that he had blood on his private parts and in a size that, in essence, the woman had been raped as well as mutilated. And the charging offense was a 288 without any violence in it at all.

And the Court found on appeal that that case simply was one of those cases where the Court should have exercised its discretion and not allowed it in because of the fact that the conduct was so dissimilar and the conduct was inflammatory because of the nature of the violence involved.

And the other factor that the Court pointed out was how, in attempting to try to balance the inflammatory nature, the Court basically redacted the way the crime was committed in such a fashion that it was absolutely impossible for the jury to 3738

understand what really happened.
And of course that's not -- that's not a problem that this Court is faced with. We're not faced with a Harris, because the crimes are not different. We're not faced with a Harris, because we're not dealing with violence. We're not faced with Harris, because there's no reason for this Court to redact anything, because of the very, very, very similar nature of the conduct involved with the defendant and Gavin Arvizo and the ones that we're attempting to put in as uncharged prior acts.
So I say to the Court that the confusion to the jury in this case is simply not present. And for whatever -- whatever hay that the defense wants to make of it in their argument to the Court, the fact of the matter is, it is clearly distinguishable from the instant case.
Now, the last factor we want to talk about is undue consumption of time. And we've indicated to the Court in our moving papers what our estimate of the direct examination of the witnesses would be; that basically almost all of the cases, the direct examination would be less than an hour, and in some cases significantly less than that. That's not accounting for the defense's right for cross-examination.
But I will indicate to the Court to the Court, as pointed out in the Frazier case, and this 3739

1 is a 2001 case, 89 Cal.App.4th, at page 42, in that
2 particular case, 182 pages of the transcript, in
3 other words, 27 percent of the trial, in other
4 words, the Court said in the decision, one quarter
5 of the trial was devoted to the priors, that that
6 was not, in their opinion, undue consumption of
7 time.
8 Now, given the length of time of this trial,
9 and given what we're seeking to admit, and the
10 tightness of the issues that we're talking about,
11 clearly our case is not even going to come close to
12 consuming 25 percent of the trial time in this case.
13 And the second one that the Court -- if the
14 Court wants to review another case that alsO
15 examined the same issue of undue consumption of time16 is the Mullens case, M-u-l-l-e-n-s. And that's a
17 2004 case. It's a very recent case, 119
18 Cal.App.4th, 648 at 661, where the defense in that
19 particular case made the same or similar remarks as
20 the defense in this case; that we'll end up with a
21 series of mini-trials over the uncharged acts.
22 Well, that of course, is exactly what happened in
23 the 11 cases that we cited to you where multiple
24 uncharged or charged offenses were admitted into
25 evidence. And the Court, in those cases, as well as
26 this recent case, indicated that's really not an
27 appropriate reason in and of itself to reject 1108
28 evidence in light of the very, very strong 3740

legislative intent that this kind of evidence be admitted in trials of this very nature.
So I indicate to the Court that all of the balancing factors that have been traditionally looked to by courts for the issue of 1108 admissibility not only tend to favor the prosecution in this case, but I think on balance favor, in a very strong way, that this Court should admit the evidence that we seek to bring before the jury in this particular case.
Let me just say one last thing in that connection, Your Honor, and that is one of the things that the Court has looked at in factors of admissibility in this area in terms of the probative value. And I've talked a lot about the prejudicial effect. But the probative value, that there are three principles I think that can be distilled from the cases in this area.
From the Ewoldt case, E-w-o-l-d-t, which is one of the leading cases on 1101 evidence, but clearly the language is probative on this particular issue, and that is the probative value of uncharged offenses increases when the source is of independent evidence. And by the way, that very language has been cited in some of the 1108 cases, and so that's the reason I went back to the seminal case on it.
But the fact of the matter is, that's exactly what we have here is uncharged offenses which are of an 3741

independent source and independent witnesses. In the Yavanov, Y-a-v-a-n-o-v, case, which is cited in our brief, and the language is found at page 405, another factor on the probative value is the frequency of the uncharged acts bolsters the relevance. And again, we have -- as I've indicated to the Court, the frequency and the number of individuals involved who observed things as well as the different number of victims that were observed. And lastly, the Frazier case at 89 Cal.App.4th, page 30 at page 41, indicated insofar as 1108 evidence goes that the pattern as to the same type of children is significant in the balancing process.

And we submit to the Court that in this case, of course, the pattern in the similarities; that the victims are similar in age, the manner in which the victims were cultivated is similar, and the crimes are similar. And under these doctrines, I think, are all the more reason why this evidence should be admissible.

At this point, Your Honor, I'd like to just shift gears, if I might, to deal a little bit with the 1101 issue before the Court. And again, I'll try not to go over things I've already covered and that have been briefed, but I want to highlight some of the things that are more relevant to the Court's decision here this morning. 3742

I think it's important to start again with the cases that are responsible for developing the guidelines under Section 1101 of the Evidence Code. And, you know, those two cases are -- came down at the same basic time, and that was Ewoldt and Balcom, B-a-l-c-o-m. Balcom's at 7 Cal.4th, and the language I'm citing is around 424. But they make it very clear -- that decision made it very clear that when Courts are faced with evidence admissibility under 1101, that they are usually and traditionally divided into three camps. There's the identity, the modus operandi and intent. And there are different standards for the Court with regard to reviewing the admissibility.

And we have indicated to the Court that we are seeking to admit the evidence that we put in our offer of proof under at least three, if not four, separate exceptions that are noted in 1101(b) of the Evidence Code. And the first, of course, is the intent. And by intent, we're talking about the lewd and lascivious act and the sexual gratification for which the acts were done in this case. And particularly I think if you look at the language in the Branch case at 91 Cal.App.4 at 274, you'll see in an analysis of that case how the intent or the sexual gratification is a key issue in cases of 288(a), which is the kind of offense that we have before the Court here. 3743

Again, we indicated to the Court a second reason for the admissibility is the motive. And the motive has been recognized by the Thompson case, which we also cited to the Court, is the incentive to criminal behavior. And here it's a propensity, proclivity for the defendant to be involved in relationships with children between the ages of 10 and 13.

And lastly -- well, in addition to opportunity, we indicated the modus operandi, and I want to point out just a couple of things on modus operandi. Modus operandi on the scale of the issues on both the Ewoldt and Balcom cases is in the middle. And when it's intent, there needs to be less similarities. When it's identity, there needs to be almost like a hand print. And for modus operandi, it's sort of in the middle. But both Balcom and Ewoldt make it very clear that when you're dealing with modus operandi, it does not have to be distinctive necessarily, nor does it have to be unusual.

Now, I would submit to the Court, on the other hand, in this particular case we have both a distinctive one and an usual one, and that is that we have a series of acts involved on male children between the ages of 10 and 13. And we have pointed out to the Court in our points and authorities a number of cases that have found, in evaluating the 3744

admissibility of 1101 evidence, critical
similarities that are far less unique than the ones
I've suggested to the Court here.
I won't go through the whole litany, but
I'll direct the Court to page 46 of our brief
between lines 20 and 28, and we indicated to the
Court there are no less than, looks like, eight
cases in which the courts of the state have admitted
evidence under 1101 where the similarity involved
things just like I have suggested to the Court.
Victims: Close relatives, white, young, females,
all white males between the ages of 18 and 25. I
mean, how close can you get? Two 12-year-old
children. So I think the Court is on very firm
ground in evaluating the admissibility of evidence
that we seek under 1101(b) to rely on those cases
and rely on the distinctive nature of the uncharged
offenses in this particular case.
Of course in the 1101 field, the balancing
test, the four factors that were outlined in 1108
also apply to 1101(b), and I -- without reiterating
them -- and I won't reiterate the factors that I've
gone through, but I see nothing in the evidence that
we seek under 1101(b) that my remarks to the Court
would be any different than the remarks I made under
1108. And, in fact, probably, in many cases, would
follow even stronger in the area of admissibility
than they would have been in the 1108 area. 3745

I would like to point out to the Court, however, the case of Dancer, D-a-n-c-e-r, which is a case that we cited in our brief, and in particular we cited -- that's at 45 Cal.App.4th 1677. And on page 486 -- 485 of our brief, we indicated in the Dancer case they found something like 12 or 13 items of similarity in that case. And we contrasted that and compared that to our particular case where we identified for the Court at least 17 similarities, much of the same -- paralleled the same kind of information that was available in Dancer. And it's for those reasons, Your Honor, we believe that that case is very pertinent to the admissibility of the evidence presented here.

I would like to reiterate that I think there's a couple of things that need to be said here. The defense has made a big thing about the fact that the defendant -- in fact, Mr. Mesereau stood up in his opening statement and read off a list of things that the defendant, Michael Jackson, has bought the mother of the victim in this case. And I think it's illustrative of the fact that this is not unique to the mother in this particular case, but that -- to other mothers involved with other children, that we intend to put evidence on that this was a rather standard procedure for the defendant to buy gifts and to do things for the mothers in those cases to keep them 3746

1 preoccupied so the defendant would have free rein
2 with the child involved.
3 And again, the other part of the 1108 is to
4 establish that the nature of the relationship with
5 these children, that there was nothing unique about
6 the relationship that was developed between Gavin
7 Arvizo and the defendant in this case, that it was
8 precisely -- precisely like the kind of relationship
9 that he developed and had with a number of special
10 friends over a period of a number of years that were
11 witnessed by the witnesses that we've indicated to
12 the Court, that have observed that kind of
13 relationship between the defendant and children
14 between the ages of 10 and 13. And by "that kind of
15 relationship," I want to make it clear to the Court
16 what I'm talking about. It's a relationship
17 different from that, from kids who are visiting that18 ranch for purposes of riding the rides, going to the
19 movies, enjoying the facilities, and then leaving,
20 on a day basis.
21 These are relationships that were developed
22 on an ongoing basis where the children came, they
23 visited, oftentimes they visited without their
24 parents. They visited other locations where the
25 defendant was living at other times, and developed
26 the kind of relationship that we have heard
27 testimony about with Gavin Arvizo. And I think,
28 again, that this is the kind of evidence precisely 3747

1 that this jury ought to hear, that this is not the
2 first time that the defendant has approached a child
3 in this manner and in this respect and think that
4 it's a unique experience for Gavin Arvizo. That, in
5 fact, this is the way that the defendant operates.
6 And that's precisely why I believe that the modus
7 operandi exception is uniquely applicable to this
8 particular case.
9 I'm assuming, Your Honor, that just about,
10 I think, wraps up what I wanted to draw the Court's
11 attention to. Of course, I don't want to repeat the
12 things we put in our brief. And I'll reserve, of
13 course, my remarks.
14 I think the Court would like to -- I'm
15 assuming the Court would like to handle the
16 admissibility of the evidence of the civil
17 settlements after the Court finishes this evidence,
18 and I'm not addressing that now.
19 THE COURT: That's fine.
20 MR. SNEDDON: I'm open to any questions that
21 the Court has at this point, if you have any.
22 THE COURT: No.
23 MR. SNEDDON: Thank you very much, Your
24 Honor, for listening to me.
25 MR. MESEREAU: Good morning, Your Honor.
26 Your Honor, my approach is going to be quite27 different from that of the prosecutor. And my
28 approach is based upon comments made by this Court 3748

at a prior hearing on this issue.
When the issue initially surfaced in open
court, this Court very courageously and honorably
described a prior incident where Your Honor was the
trial judge in a case brought by prosecutors against
a defendant alleging child molestation. The
defendant pled not guilty. The Court used all of
the cases, I'm sure, that Mr. Sneddon has cited to
justify the admission of 1108 evidence. The Court
heard that 1108 evidence, then the Court heard the
underlying case, and as I interpreted what the Court
said, Your Honor, you found the underlying case so
lacking in credibility and substance and so
problematic that you declared a mistrial, even
though you had, under the technical law cited by
Mr. Sneddon repeatedly this morning, allowed in 1108
evidence.
THE COURT: Counsel, that -- actually, I
granted a new trial after conviction, but the same
point.
MR. MESEREAU: Okay.
THE COURT: Based on that point.
MR. MESEREAU: I have no doubt that every
case and authority cited by Mr. Sneddon could have
been used to justify the admission of that evidence.
But the Court did not just rely on those cases. The
Court did not just rely on those authorities. The
Court had a concern for justice, and fairness, for 3749

which we commend the Court. And the Court was not going to allow the 1108 statute to supersede fairness, justice, the presumption of innocence and the burden of proof.

And I think the Court crystallized the issue before it this morning when you related that event. What I believe the Court was concerned with, and I'm putting it in slightly different terms, is that this Court, despite that statute, did not want to see either the burden of proof or the presumption of innocence reduced or eliminated by the introduction of that evidence. And what I believe the Court said, in different words, was the following: The weaker the case, the more problematic the 1108 evidence. The stronger the underlying case, the less a possibility of prejudice and injustice by admitting it.

And indeed, no matter what the prosecutor may cite in his arguments to the Court, the statute does allow the Court to exercise discretion under Evidence Code 352, and that discretion is significant.

That gets us to the question, what has the Court seen in this courtroom? Is the case strong on credibility and substance or is it weak on credibility and substance? If it's really powerful, the Court probably is less worried. If there are credibility problems with their case and their 3750

witnesses, the Court has great concern to worry because the potential for lessening the burden of proof on the prosecution in this case would be great.

Now, the Court is dealing with some unique situations. First of all, you have a celebrity. A celebrity who has been subjected to all kinds of innuendo, scandalous reporting and rumor, and a celebrity who has attracted all kinds of claims for money, who has developed a lifestyle at Neverland which he has advertised to the world, which he believes and contends, and many believe, is a benefit to society. The prosecution has come in to try and turn all this on its head and suggest that Neverland is some magnet for molestation and criminal behavior. Well, that's going to be an issue for the jury. But certainly at this point the Court knows, based on the evidence alone, that Mr. Jackson has developed Neverland as a Disney-like type of world that he uses to help children from the inner city, children around the world, et cetera.

There's a bigger problem than the uniqueness of the case, and none of the cases cited by Mr. Sneddon deal with celebrities or anyone remotely close to Mr. Jackson in terms of notoriety and attraction for greed and misuse of the legal process.

The Court has seen three witnesses who the 3751

Court -- who the prosecution suggests are victims.
And without going into a lot of the details, which I don't think the Court wants me to give a closing argument at this point, but there is no question all three of those witnesses have been riddled with problems in their testimony. All have agreed they lied repeatedly. All were caught lying on the witness stand. All were caught in notorious and repeated inconsistencies and all contradicted themselves repeatedly. Every witness was a problem.
Now, if the Court agrees there are significant credibility problems with Gavin Arvizo, Star Arvizo, and Davellin Arvizo -- and I believe the Court does, because I don't see how anyone watching the cross-examination could disagree with that. If the Court thinks there are issues to worry about, I would ask the Court to add to that concern the following: Gavin alleges two acts of alleged molestation. There is no eyewitness to either one. And there is no DNA to support it. In fact, there's no forensic evidence at all to support it. Star, along with his credibility problems, alleges -- it changes, the number. But he appears to allege two acts of molestation, separate from those of Gavin that he watched. There is no eyewitness. There is no DNA. There is no forensics to support it.
So as the Court looks at the evidence so far, what do you really have? You have what, in 3752

effect, is a very problematic case, and I submit the prosecutors know that. It's extremely problematic. It's filled with credibility issues. And those credibility issues I submit to the Court at this point are compounded by the evidence they've tried to introduce so far about conspiracy.

Now, I realize we're talking this morning about the molestation claims, but certainly the Court, and any jury, when gauging credibility, if the Court thought the conspiracy claims were problematic, filled with credibility issues, that would most certainly and rationally spill over into other claims and vice versa.

Now, the Court at this point has heard the prosecutors talk about the mother. You've seen the rebuttal tape. You've seen the demeanor of the witnesses. You've seen the three witnesses get up and say, "We all were lying repeatedly." The Court at this point has its own conclusions about what that rebuttal tape suggests and whether these answers were spontaneous or whether they were scripted and rehearsed. And I don't think anyone looking at that tape is even going to imagine that these are all rehearsed answers. The Court knows that the family were sending cards to Mr. Jackson way before they made their glowing statements on the rebuttal tape calling him "daddy" and how he had helped Gavin with his cancer, et cetera. 3753

The Court has seen witnesses come in who have tried to downplay what Mr. Jackson did for them and get caught in notorious lies repeatedly. The Court has seen notorious differences between what's said on the witness stand, what's said in police interviews, et cetera.

Now, the Court hasn't seen the mother yet. And we wish the Court would see the mother before it makes its decision, because everything I'm arguing to the Court is going to be magnified a million times when she testifies.

What the Court has seen the prosecution do is the following: They have desperately tried to prove to this jury why their witnesses would tell repeated lies, why they would contradict themselves, why they were caught in numerous inconsistencies. They are reduced, as prosecutors, not to just proving a case beyond a reasonable doubt, but trying to prove to a jury why their witnesses lied. And they've gotten so desperate they're now trying to differentiate the mother from the ex-husband, which is simply not going to work, because one of their witnesses, Louise Palanker, when she wrote her first check for $10,000, was asked by the husband to write it to Janet Arvizo. It was received by Janet, endorsed by Janet into her mother's account. And of course, as the Court knows, the next check which Ms. Palanker wrote, because she didn't want to pay a 3754

gift tax, wanted it to go to another individual, was written to David. It was then also endorsed by him and deposited into Janet mother's account.

The prosecution is reduced now to trying to prove that Janet Arvizo did not always directly ask for money, and yet the overwhelming proof is going to be that she didn't directly ask for it, she indirectly did, and received it. And that's going to be absolutely proven beyond any doubt when the case is finally to the jury. Because we have witnesses coming in our case that nobody has seen yet.

I submit to this Court that the introduction of 1108 evidence is very problematic, given the weak nature and the contradictory nature of their case.

I submit that the introduction of 1108 evidence could easily reduce the burden of proof the prosecutors have, could easily jeopardize the presumption of innocence in this case and could render an unfair trial.

Again, I understand what the cases say and what they cite, but this Court has very honorably suggested its concern for fairness, as it was in another case, and that's why the Court waited to see what some of their witnesses looked like. I wish we would defer it, because every time they put a witness on, it gets worse. But nevertheless, here's where we are. 3755

Now, what is 1108 evidence essentially?
Essentially it's character evidence. And when the debate was going on in legislature about whether or not to create an exception, tremendous concerns were raised about allowing the prosecution to simply introduce evidence of -- what appears to be evidence of bad character.
Now, they can phrase it in any terminology they want, they can say it's evidence of modus operandi, intent, blah blah. But the reality is, they're trying to bring in character evidence to bolster a separate charge. And any time you do that, the Court has to be concerned with the possibility of prejudice.
Now, I don't need to recite the cases to the Court on prejudice. I know the Court's familiar with them. But every time they define prejudice, they define it in terms of emotion. Will it have an emotional effect on the jury that is improper? Will it have an emotional effect on the jury that results in unfair prejudice to the defendant? And if, in fact, that emotional effect is there, will it also spill over into the other factors like confusion of issues, et cetera?
The evidence they're trying to introduce is evidence of a highly inflammatory and emotional nature. There's no question about that. But I think the Court also has to look at the substantive 3756

part of the evidence that they want to introduce, because from what we can see in the cases that we've looked at, every time they've introduced 1108 evidence in a case like this, they have had a separate alleged victim describe something similar. Nowhere can we find they are just willy-nilly bringing in third-party witnesses to say they saw something without bringing the alleged victim in. Yet that is exactly what 99 percent of the evidence they plan to bring in is. And I submit the potential for prejudice there is overwhelming. They probably couldn't win a civil case if they were pursuing a civil case based on nothing but third parties. Yet they want to do it in a criminal case without any of these alleged victims coming in, with the exception of one, who is problematic, and I will explain that to the Court.

So I submit the very substance of what they're trying to do is wrong, and it's potentially very prejudicial to Mr. Jackson particularly given the weak nature of the case.

Now, let's look at what they're trying to do. They have an alleged prior victim named Brett Barnes who tells us he never was touched improperly. They want to bring in four witnesses to talk about Brett Barnes. They don't want to bring him in. Because the moment they bring him in, they're done. So they want to bring in allegedly four honest 3757

witnesses - I guess they're vouching for their credibility - to testify that Mr. Barnes was improperly touched.

Who are their main witnesses? Their main witnesses sued Mr. Jackson in the mid '90s, and for the first time Mr. Jackson decided, "I'm tired of settling these stupid cases, I'm actually going to defend this one." It resulted in the longest civil trial in the history of this courthouse. And the Court, I'm sure, knows a lot more about that case than I do. At numerous times during that six-month trial, the trial Judge made findings that the plaintiffs were lying, not being candid, changing their stories, even leaving the bench on a couple of occasions. And when the dust settled, the jury returned a verdict for Mr. Jackson, awarded Mr. Jackson damages, because the plaintiffs had stole from him. The Judge then awarded not only costs, but legal fees, and in the end Mr. Jackson obtained a judgment for over a million dollars against these lying plaintiffs.

They want the Court to allow these lying plaintiffs to come in now again and try and testify to improper acts, when there is no alleged victim they intend to call. That's just plain wrong. And if they suggest it wouldn't be time-consuming to litigate that issue, all the Court has to do is look at the six-month trial and its length to know that's 3758

not true, because they sold stories to tabloids,
they were caught lying, and they had a big judgment
against them.
Then we have Jordie Chandler, who everyone
tells us, and apparently was announced on television
this morning, is not going to testify. So who do
they want to bring in to testify to that? First of
all, Your Honor, I would note that in their motion
they mention someone named Bob Jones. And in very graphic -- in a very graphic manner they told the
Court that Mr. Jones had worked for Mr. Jackson for
years, had traveled internationally with him, and
would testify to all sorts of improprieties with
children. We just were produced a police report by
the prosecution where Mr. Jones flat out denies
virtually everything they said in their motion. He
has told the Santa Barbara Sheriffs, with counsel,
that he never saw anything inappropriate happen when
Mr. Jackson was in the company of any of these
children.
They haven't told that to the Court in any
of their papers, to my knowledge, but they just gave
us that report.
Now, what happens if you allow third-party
testimony about Mr. Chandler without allowing Mr. --
forcing them, or ordering them, or requiring them to
have Mr. Chandler, the alleged victim, testify? You
then have people come in to say what they saw 3759

without any victim to confirm it.
And what happened back in those days? In
summary, this is what happened: Chandler's parents
had been divorced in 1986. The father had given up
custody of the child. When these alleged events
happened, the father jumped on the bandwagon and
wanted to become a multimillionaire, and he fueled
litigation. And all of a sudden, you had the
parents suing Mr. Jackson, you had -- the mother's
new husband then decided to sue Mr. Jackson for
allegedly interfering with his business. He had an
auto company, and he claimed that the publicity had13 interfered with his business.
He wanted millions.
After the settlement, the father then filed a new
lawsuit against Mr. Jackson wanting 30 million more
dollars. That was litigated and he lost. You have
all sorts of collateral litigation, and eventually
Mr. Chandler filed papers in Superior Court seeking
legal emancipation from his parents.
Where is the justice in this case of
allowing parents to come in who collected lots of
money because Mr. Jackson wanted to get this case
behind him and pursue his music career? And indeed,
all kinds of advisors were telling him to do that.
You have parents playing each other off with the
child and pursuing collateral litigation, all of
that will obviously have to be explored, because the
potential for financial interest, financial bias in 3760

a situation like that, is enormous, the motives for financial gain were enormous, and indeed, there never any criminal prosecution despite Mr. Sneddon's noble efforts to try and do one.
So there's no alleged victim with Brett Barnes. There's no alleged victim with Jordie Chandler. Then we come to Macaulay Culkin, who has repeatedly made statements that he's a friend of Mr. Jackson and has never been molested. But they want to bring in evidence that he was molested. And they want to bring in witnesses who also were part of the gang that sued Mr. Jackson, and lost, with findings that they had lied and with enormous damages awarded against them.
Now, the fourth alleged victim is Jason Francia. Jason Francia and his mother were interviewed by the sheriffs and a deposition of the mother was taken. Money was paid to settle that case, again because Mr. Jackson didn't want the press, didn't want his family going through it, and wanted to pursue his music career. There never was a criminal prosecution, even though the alleged victim was interviewed by the Los Angeles District Attorney and the Santa Barbara District Attorney together. And after their interview with Jason Francia - which was so wishy-washy about what happened, they never decided to pursue a criminal case, because there wasn't one. We have that taped 3761

interview - the mother, in a civil deposition in the Chandler litigation, began by saying she saw something and ended by saying she saw nothing. And indeed, stories were sold to tabloids, and money was paid to settle. He appears to be the only alleged victim they want to bring in.

Five, Wade Robeson, who tells us nothing ever happened to him. And they don't propose to bring him in as an alleged victim. They want to bring in the gang that basically has tried to accuse Mr. Jackson and get money from him for years, generally unsuccessfully, with the exception of Miss -- Mr. Francia's mother, and I've just talked about the problems in her sworn statement in discovery. The deposition is clear, she begins by saying, "I think I saw something." She ends by saying, "I didn't see anything."

Six, Jimmy Safechuck, who we are informed says nothing happened. They don't propose to call him as an alleged victim either, but they've got the same old gang again coming in to try and capitalize on the case, people who have been adjudged to be liars, and they are. People who asked for money from tabloids, who've asked for money from Mr. Jackson, et cetera.

Seven, Jonathan Spence, who we are informed says nothing happened and doesn't intend to come in to support them at all. What do they want to do? 3762

Bring in the same crew again. Third-party witnesses with an axe to grind, all of whom have wanted money in the past, none of whom can substantiate that anything happened because the alleged victim says nothing happened.

The bulk of their 1108 evidence, Your Honor, are third parties with axes to grind, and who have tried to get money, and gotten money, and had the problems I just identified. Where is the fairness in allowing that kind of testimony, that kind of evidence, when their underlying case looks so weak and so problematic?

I submit that the Court's concern for fairness has to be squarely addressed in this situation.

If the Court saw witnesses who the Court felt had complete integrity, had never lied, never told inconsistencies, never contradicted themselves, never contradicted each other, if there were forensics to support any of them, or eyewitnesses to support any of them, the Court might say to himself, you know, "I'm really not giving Mr. Jackson an unfair trial if I let some of this in." But it's just the opposite.

And I submit the weakness and the problems in their case have made the Court's decision much more difficult.

There is an issue, Your Honor, that Mr. 3763

Sneddon has raised by proposing to call third-party witnesses without the alleged victims. And that has to do with what is an offense. Because the statute, 1108, talks in terms of an offense. And every definition we can find of an offense talks in terms of a crime.

And I submit to the Court that if you look at what the legal definition of an offense is, or you look at what the legal definition of proving a crime is, how can you just allow a parade of third-party characters to come in without any alleged victim? How can you do that? Because even though they didn't charge it as a crime, they still have to prove an offense. And I submit this Court, in the interests of fairness, given the problems with their case, I think has a duty to say to itself, "Can they really prove some type of offense, or some type of uncharged crime, based on what they've told us?" And the Court knows they can't. They can't do it.

According to the statute, and I'm talking about 1108, sexual offense means a crime under the law of the state or of the United States. How do you prove a crime in these cases without any alleged victim? And maybe that explains why there never was a criminal prosecution in those cases, because the alleged victim say it didn't happen.

I submit, Your Honor, that Evidence Code 352 3764

1 is extremely broad. Just because Mr. Sneddon
2 parades a lot of cases where the introduction of
3 1108 evidence has been upheld, doesn't mean there
4 haven't been many instances where trial judges
5 didn't use their discretion and either eliminate or
6 whittle down what the prosecution would allow,
7 because 352 is very, very clear. The Court must be
8 concerned with all the issues raised in 352.
9 And I would like to just briefly talk about
10 the People v. Falsetta case, where the California
11 Supreme Court upheld Evidence Code 1108. Here are
12 the issues the Court said the trial judge must
13 consider: Possible remoteness. Now, if you listen
14 to Mr. Sneddon, the words "possible remoteness" mean
15 nothing. They don't require any common sense
16 approach. They don't require any common sense
17 consideration. If you listen to Mr. Sneddon, he
18 cites appellate cases which basically say possible
19 remoteness just doesn't have any meaning, and that's
20 not what the California Supreme Court said. The
21 fact is, the issue of possible remoteness is in the
22 discretion of you, Your Honor. And they can't
23 eliminate it by citing what other Appellate Court
24 decisions have done.
25 Now, they're trying to bring in evidence of
26 many, many years ago, '92, '93. This is the year
27 2005. The statute is clear and the Supreme Court's
28 language is clear. If the Court thinks that these 3765

alleged acts are too remote in time to really create real evidence of a pattern, and particularly if the Court says, “I think their case has enough problems, to bring in evidence of a remote nature is going to tip the scales away from their burden of proof, away from the presumption of innocence,” I think the Court has every right and every duty to consider if these acts appear to be remote. And acts from the early ‘90s, uncharged, unproven, where everyone had their hand out for a buck, and where alleged victims aren’t even willing to come forward and say anything happened, in fact, they’re saying the opposite, I think all of that put together gives the Court a good basis to use its discretion in deciding whether or not these alleged acts are too remote in time.

In People v. Falsetta, our Supreme Court then talked about the degree of certainty of its commission. How can they possibly stand before this Court and say, “We can establish a degree of certainty of the commission of these alleged offenses,” when no alleged victim is even willing to come forward and say it happened? How do you possibly convince this Court that their claims are certain when there is no victim to say they’re certain? I submit this Court must consider not only the possible remoteness in time, but the degree of certainty of its commission, particularly when they have no alleged victims to come forward. 3766

Then there's the issue of the likelihood of confusing, misleading or distracting the jurors from their main inquiry. Obviously the evidence they want to bring in has nothing directly to do with the Arvizo family, who, yes, Mr. Sneddon is correct, by the time the trial ends, their reputations and their fraudulent acts will be all over the courtroom. The best is yet to come, because the mother hasn't testified to her perjury in depositions, and her perjury on welfare applications, and her defrauding disability, and her defrauding welfare and not telling either one what they're doing, where she put the money, what she said to newspapers, what she said to certain celebrities, et cetera. The best is yet to come.

But nevertheless, why allow them to bring in disgruntled employees who lost their lawsuit and actually were found by a jury to have stolen from Mr. Jackson and found by a Judge that they must pay over a million in legal fees and costs? Why allow them to come in when there is no alleged victim to support anything they say? That would be highly prejudicial and highly improper, Your Honor. And to say it would prolong this trial is an understatement. Because every time one of these people comes in, we not only cross-examine them, we have to bring in our own witnesses to contradict what they say. And let's look at the numbers. 3767

One, Brett Barnes, who they say is not coming in. They want to bring in four witnesses. Two, Jordie Chandler, they want to bring in five witnesses. Three, Macaulay Culkin, they want to bring in four witnesses. Four, Jason Francia, they want to bring in himself and his mother. Five, Wade Robeson, they want to bring in five witnesses. Six, Jimmy Safechuck, they want to bring in one, two, three, four, five, six, seven -- eight witnesses. Seven, Jonathan Spence, they want to bring in three witnesses.

How can they possibly suggest this is not going to prolong this trial interminably, because as the Court knows, under the law, the defense has a right to defend these allegations like it would any other case. And there's no reason to think these alleged offenses would not be defended as vigorously as the case before the Court is being defended, because you can't deny a criminally accused in a situation like this the right for a full-blown opposition and a full-blown defense to these types of allegations. So how Mr. Sneddon can look at the Court and say, "Oh, it will just take maybe 25 percent of our time," is absurd. It's going to prolong this trial interminably because we have to defend our client's reputation and life in this very serious situation.

I've talked about prejudice, and prejudice 3768

again is always defined in terms of emotion. And with a problematic case like this, the problem with the emotional effect of 1108 evidence is vastly increased. So I think the Court, again, has to come back to where we started. We start with the Court's concern for fairness and justice, particularly with respect to what their case looks like, and I submit it looks real bad and it's going to get worse.

The Supreme Court, in People v. Falsetta, Your Honor talked about the Court considering less prejudicial alternatives to its outright admission. Well, how to fashion a less prejudicial alternative obviously sounds problematic, because again, you can't hamstring the defense and not let them put on a full-blown defense to any allegation, no matter how flimsy it may seem to be. And when I say, "put on a defense," I do mean exactly that. Anything which impeaches the credibility is open season. If their character or reputation for trustworthiness, as it is in this courthouse, given the trial judge's rulings in that civil case is certainly fair game. Their financial motive is certainly fair game. Who they sold their stories to is fair game. You're talking about a full-blown trial where prior statements, prior testimony, prior transcripts are all open season for the defense to defend and protect itself.

I think the Court should never allow them to 3769

bring in any of this evidence if they don't have an alleged victim to support it. And they just don't. They want to bring in people to say, "I saw something. I heard something." That simply is not acceptable. The potential prejudicial impact of that is far outweighed, far outweighs the benefits to our justice system, or any benefits the Court might think they're entitled to under the law, particularly in a weak case.

The Court talks about excluding irrelevant though inflammatory details surrounding the offense. Well, they've already -- Mr. Sneddon's argument has already suggested an avalanche of time-consuming litigation in this courtroom, because what he's saying is that if Mr. Jackson spends money on someone like a mother - and indeed, Mr. Chandler's mother flew to Europe with him, stayed in luxury hotels, Monte Carlo, France; big events; buying jewelry at Cartier, clothes, gifts - yes, indeed, Mr. Jackson has done that to certain families. He also has spent millions on children with AIDS. He has gone to hospitals all over the world and contributed money to sick children. He even has a habit of doing that before a concert. He will go to hospitals and meet injured and sick children. Yes, he spends lots of money on people.

But they want to suggest that because he spends money on somebody, that he somehow is doing 3770

this with a malevolent criminal, molester's type of purpose. And we can drown them with examples of where Mr. Jackson has been so benevolent, so generous, so charitable, so giving for good causes, that it will make their theory look silly.
The Court is already faced with a long trial, Your Honor. You really are. We're talking about probably months more of testimony. They haven't essentially, I think, from what I've heard, really gotten to the crux of their conspiracy allegations. They've alluded to it by having the Arvizo children testify that they were falsely imprisoned three times at Neverland and went back every time and then just went home. They've alluded to it by having the Arvizo children testify to what they knew about a proposed Brazil trip. And of course when nobody wanted to go, they went home. And they've already alluded to the Arvizo children being falsely imprisoned while they went to shopping centers, while they were at their home where Miss Arvizo's boyfriend was in the United States Army, while they had access to phones, while they went into federal agencies, while they went into a Brazilian consulate, and nobody ever says, "We have a problem," or calls the police, or does anything. Unless -- and I don't think --
MR. SNEDDON: Excuse me, Counsel. I'm going to object, Your Honor. This is 3771

way off the issues that are before the Court in this particular hearing. Counsel is just making his final argument in front of the Court or the media.
THE COURT: All right. We'll take our morning break.
MR. MESEREAU: Okay.
(Recess taken.)
THE COURT: The objection was sustained. Go ahead.
MR. MESEREAU: I didn't hear you, Your Honor.
THE COURT: The objection was sustained. Go ahead.
MR. MESEREAU: Your Honor, I just have a few more points to make, and I will sit down.
On the issue of undue consumption of time, I'd like to give the Court an example of what I'm talking about.
One of the plaintiffs in that civil case against Mr. Jackson where the plaintiffs lost and were awarded -- Mr. Jackson was awarded over a million dollars in legal fees and costs. But someone named Adrienne McManus, her deposition, I am informed, was taken eight times in that case.
That's just one witness. And apparently in her trial transcripts, which we have, she is changing her testimony so often that she gets back and forth, the testimony is prolonged, and the point I'm making 3772

is that's just one witness. Eight depositions plus six months of trial testimony.
In the Jordie Chandler civil case, you had approximately five months of litigation before the case settled. You had numerous depositions and numerous pleadings in civil discovery that would be relevant and usable.
Now, I want to emphasize something we said in our papers. The testimony that the prosecutor wants to introduce concerns seven alleged victims with only one scheduled to testify. This testimony has been presented to two criminal grand juries in Los Angeles and Santa Barbara, neither of which ever returned an Indictment, and it's been rejected by one civil jury in the longest civil trial in the history of this courthouse.
Now, I know the prosecutor likes to say, "Well, those grand juries were purely investigative only." But obviously the purpose, from Mr. Sneddon's point of view, to the degree he controlled anything, was to see if they could bring criminal charges. And neither grand jury brought a criminal charge. And many of the witnesses who -- not "many," some of the witnesses who sued Mr. Jackson in the civil case also testified in these grand juries where no criminal charges were ever brought.
Now, there is evidence -- excuse me, there is case law to the effect that if one is acquitted 3773

of a prior sexual offense, the evidence of the acquittal is admissible. I haven't seen anything about whether or not you can bring in the fact that a grand jury refused to indict, but certainly the fact that they went to two grand juries, there was no Indictment, they went to a civil jury, they lost, and the fact that they don't have alleged victims with the exception of one, plus you're talking about lengthy civil litigation, numerous depositions, numerous pleadings, numerous witnesses, plus the fact that the defendant has a right to defense as if it were a separately charged crime, and that means every type of defense imaginable, including rebutting the character nature of the evidence, which would mean opinion evidence, reputation evidence, and maybe specific instances of conduct, will unduly prolong the trial.

Finally, Your Honor, I will get back to where I started. Evidence Code Section 352 is sacrosanct in this courtroom. It is a fundamental component of the statute of 1108. It gives this Court enormous discretion to eliminate potential for prejudice, for bias, for a prolongation of the trial that would be unproductive and not in the public interest. It allows this Court enormous discretion to make sure issues aren't confused. It enables this Court enormous discretion to make sure that the burden of proof is not fundamentally changed, that 3774

the presumption of innocence remains intact, and that Mr. Jackson has a fair trial.
For the reasons I've articulated, we're asking that the prosecution's motion be denied in its entirety.
Thank you.
THE COURT: Counsel? Rebuttal?
MR. SNEDDON: Your Honor, I think that what we've heard here this morning is something akin to a pattern that we've seen in this case, and that is reckless, exaggerated and misleading statements on the part of counsel with regard to what he believes the evidence and the testimony has produced so far in this case, and similar to ones he's made in opening statement, and I say this for this reason. I'm not going to get into a contest of saying what we believe the evidence has shown or what the credibility of the witnesses are to this Court, because this Court's been here and you've seen it for yourself. But I am going to point out that since Mr. Mesereau stood up in his opening statement and made certain assertions to the jury in this case, we've blown massive holes in his theory of this case; the witnesses that he said was -- Janet was going to do that and Janet was going to do that. The fact of the matter is they're now shifting gears from the original hypothesis to say, well, "She wasn't directly involved," like I said in 3775

my opening statement, but now she's indirectly involved. Because we've proved otherwise. Similarly with the fingerprint evidence, you know, the fingerprints were on there because the kids touched it at the grand jury. Now we have the evidence from the people to show that those fingerprints were on magazines that weren't even in the grand jury, so they couldn't have been put on in the grand jury. Those magazines were at the Department of Justice being examined for trace evidence at the very time that the defense alleged somebody put their fingerprints on them.

It's this kind of stuff that bothers me about Mr. Mesereau's statements to the Court. But rather than get in a point-by-point recitation, I'm going to rely, as I have before, and we will to the end of this case, that the Court can make up its own mind about what the Court feels that the evidence has produced in this case.

I will only say this, and this will be the only thing I will say: Gavin Arvizo sat on that witness stand for almost three days. The first day he was on there for almost 40 minutes, and Mr. Mesereau was as abusive, was as mean-spirited, and was as obnoxious, frankly, as you could be to a child witness in a case. He spent the next two and a half days with binder after binder after binder coming up here and asking things. That kid didn't 3776

have a piece of paper in front of him. Not a single piece of paper. And I think it was a remarkable job that that child did. He was never once tripped up about the fundamental fact that the defendant in this case molested him.

We produced evidence that have blown holes in the defendant's case, from Palanker to Coleman, and we'll have some this afternoon when the Lopezes testify; that the defense has consistently exaggerated, and misled the jury in this case, and the Court.

With regard to the second part about the civil case, I think, again, this is a case where many of the things Mr. Mesereau said are completely misleading. The first thing to understand is that the issue in that case had nothing -- nothing, zero, zilch, nada, nothing to do with child molestation charges. That evidence was specifically excluded by the Court. The depositions that make reference to that information contain pages of probably less than 100 pages in that deposition devoted to that part of it. The deposition mostly, and the trial, was entirely devoted to issues of harassment, intimidation, of illegal surveillance and monitoring of conversations. It had nothing to do with the facts of this case, as we're attempting to put before the jury the uncharged offenses. Nothing.

It lasted six months because the defendant 3777

in that case persistently did not show up for long periods of time. And unlike this Court, which took a very firm rein on the defendant's inability to show up on time, that Court did not. And that's why that case lasted six months.

I think it's also important for this Court to know that the information that we're putting before this Court from the witnesses that are going to testify is information that was produced before that case was filed. And in fact, part of the intimidation and the harassment allegations involved in that lawsuit were the product of what happened when these people cooperated with the Santa Barbara District Attorney's Office and the Santa Barbara Grand Jury. But the fact of the matter is that the statements that were made, were made prior to the time of the lawsuit, and were made at or about the time of the investigation, and to law enforcement officers.

I think once and for all, I would like to -- because I was the one involved in it, to put to rest the thing that Mr. Mesereau keeps saying over and over and over again, as if he says it enough times that somehow it's going to become the truth. It isn't the truth. It isn't factually correct. And it's simply false.

The grand juries -- there weren't two separate grand juries. They were a grand jury 3778

impaneled to hear some witnesses, for the convenience of those witnesses, in Los Angeles, and there were some witnesses that were heard in Santa Barbara County. None of those witnesses, nor were there any indications to either one of those grand juries that an Indictment was being sought. And never was there any request for an Indictment, or any charges, or any information in any smallest scintilla of a way presented to those grand juries. The fact of the matter is, the grand juries never considered it simply because at that point in time, Jordan Chandler decided that he was not going to cooperate any further with the law enforcement agencies. And at that point, the grand jury, with regard to most of those witnesses, was completely shut down.

Which brings me to another one of counsel's points, that somehow we can't prove a case because we don't have a victim. Well, then I guess we would never be able to prove a murder case then, would we? Because we sure as heck can't put the victim on the stand. And yet on the one hand, the defense attorney tells me that one of the reasons we have a real problem here is because we have Gavin Arvizo on the stand and we have no corroboration and we have no eyewitnesses. Yet when we have an eyewitness, it's no good anymore and we can't call them.

Well, you can't have it both ways. You 3779

simply can't have it both ways. And you simply can't ignore the fact that the very things that the defense attorney's talking about in this case, there's no DNA and there's no eyewitnesses, are the very reasons that the legislature says specifically that 1108 evidence is admissible.

And what would you expect, nine months later? Of course, they never bother to say that. Oh, there's no DNA. Nine months later? There's no underpants found nine months later? The very underpants that the child left there because the defendant asked him to leave them there. Would you reasonably believe that nine months later that that stuff would be there? That they didn't wash the sheets for nine months on that bed? That's preposterous, and yet this is a reason why this evidence shouldn't come in.

Somehow we're to be penalized because victims don't want to show up. They don't want to go through what Gavin Arvizo went through. It takes a lot of courage to do what that young lad did. And I don't think -- as Urquiza said in his testimony, most children don't ever, in their entire life, disclose. And it's not a far stretch to believe that the reason they don't disclose is for the very reasons that we've seen in this courtroom; that no family and no child wants to go through what you have to go through to be vindicated when you're 3780

molested by an adult, by somebody you trust and somebody you loved at one point in time, as somebody you cared for. They put it behind themselves and they move on with their lives. Their lives aren't always the same, but that's what they do.

With regard to Mr. Jones, counsel is correct, Mr. Jones has now recanted what he said. However, Mr. Jones is in the unenviable position of the fact that we have two witnesses to whom he made the statement, and more importantly than that, we have his own writings where he describes the incident in detail. So it's true, I don't know what he's going to say when he takes the witness stand, but the fact of the matter is, he's pinned down pretty strongly to what he saw, who the circumstances were, and who the children and the family involved were.

I guess I want to just end by saying one other thing. I'm just not going to get involved in debating the issue of where we are in this case. I think as far as we're concerned, we're very pleased with where we are in this case, and pleased with the way the victims have held up and the family's held up.

And I know Mr. Mesereau has made a lot of allegations about what's going to come with Janet Arvizo when she takes the stand, but I hope he does a better job than he has with the assertions he made 3781

in his opening statement with regard to certain witnesses who claim she's running around with her hand out all the time, because not one single witness in this case has said that yet.
But the fact of the matter is -- if you notice, Mr. Mesereau talked a lot about facts. But we're lawyers. And the fact of the matter is, when a Court in your position is asked to make decisions of law, decisions of admissibility, decisions on the application of laws of the State of California as enacted by the legislature, the fact of the matter is, that the primary thing for this Court to look at is what other courts have done, and even more important than that, what have the higher courts in this state done in cases of a similar or like nature?
And the reason that I think that the defense position not only in their written briefs to this Court, but in Mr. Mesereau's recitation to you is empty, totally empty of any evaluation or analysis of the cases that we have cited to you probably 50 cases, in our brief, is the fact that none of them support them, as a legal matter. None of them. And I have not heard one word in this an attempt to distinguish as a legal matter any of those cases that we cited to this Court.
Why aren't any of those cases on remoteness applicable here? Why aren't the issues on undue 3782

consumption, why is the law on inflammatory, on prejudicial, why the cases we cited don't apply here?

And I say to the Court that in the decision-making position that you're in, this is more than simply a factual analysis, it's the applying of the facts that the Court knows them to the legal principles that have been enunciated by the state and the judiciary of the State of California, that's the position that this Court is in. And unfortunately for the defense, they're in the position that they can't find a single case that supports their position, and that is the bottom line on everything that's gone on here this morning.

THE COURT: The arguments presented by both sides here were very good arguments, and they're arguments bringing up the law and the factors that I've been working with trying to reach a decision in this matter, which is of such great importance in this case for both sides.

The arguments didn't really bring up new material, but they definitely emphasized the concerns that I've had. You know, the weighing of the case as I've heard it, the remoteness of the alleged charges that would come under 1108.

But ultimately the decision I've reached, and which I'll now announce, is that I am going to permit the testimony with regard to the sexual

offenses, and the alleged pattern of grooming activities, which is 1101 material, leading up to the sexual offenses against Jason Francia, Wade Robeson, Macaulay Culkin, Jordan Chandler, and Brett Barnes.

The witnesses that would be permitted to testify under this order would be Jason Francia, Blanca Francia, Charlie Michaels, Phillip LeMarque, Adrienne McManus, Ralph Chacon, June Chandler, Bob Jones, and Charmayne Sternberg. The evidence of alleged grooming of the other children will not be permitted. Evidence as to Jimmy Safechuck and Jonathan Spence will not be permitted.

The witnesses that would be precluded under this ruling would be Jolie Levine and Mary Coller.

And there was only one part of Bob Jones' testimony that I would consider admissible, that relating to the one physical act that he observed. And some of the testimony of Blanca Francia and June Chandler and Charmayne Sternberg would not be admissible.

But I think if you can see the way I've divided that up, the grooming testimony is limited to those cases where there's actual physical sexual conduct that's been observed by somebody. That really is where I've drawn the line.

And just to give you an example, Mr. Jones' observations over a long period of time were conclusionary and opinions that I wouldn't allow 3784

based on what he didn't see.
All right. Now, the next item I want to take up is the settlement issues of whether or not the settlements are admissible. In the one case, the Chandler case, I'm going to rule that the evidence that there was a settlement may come in, the amount may not.
The second issue on the other child, I'm not sure -- Mr. Sneddon, in your papers, you related to that. In your points and authorities, you related to a claim that was settled. Was there a lawsuit or not a lawsuit in that case?
MR. SNEDDON: There was not a lawsuit. It was settled prior to the commencement of -- it was settled in lieu of filing of a civil complaint.
THE COURT: It was settled under threat of lawsuit type of settlement.
MR. SNEDDON: That's my understanding from talking to the lawyer, yes, sir. Lawyers.
THE COURT: Well, again, the amount won't be admissible except -- I say that it's not admissible by the prosecution to prove anything. The defense, if they want to raise the amount to prove something -- it's not the same side -- it's not two different sides of the same coin. It's in the Court's opinion, the amount doesn't prove anything. The settlement leaves inferences. For the defense, though, the amount may prove something if they 3785

choose to use it. So I'm making a ruling that applies one way to this side and the other way to this side. That doesn't mean you have to, it just means I'm not taking that away from you. I'm taking it away from them.

Now, having said what my intended ruling is, if anyone wants to address that, you may.

MR. MESEREAU: I think we're going to submit at this point, Your Honor.

THE COURT: All right. Thank you.

MR. MESEREAU: We may --

THE COURT: They can't hear you. They're all waving. Either they can't hear or they just want you to wave to them.

MR. MESEREAU: (Indicating).

I think we'll submit at this point, Your Honor. We may ask for leave to revisit the issue in the future.

THE COURT: Yes, you may. It probably won't come up for a while. But sort of a secondary issue here today, and -- okay, I don't think there's any Other issue pending.

If we have nothing else, then we'll recess until 11:30 when the jurors will be here. We'll start as soon after 11:30 as we can, because we'll have already had our break.

(Recess taken.)

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REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 3728 through 3786 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on March 28, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, March 28, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA BARBARA
SANTA MARIA BRANCH; COOK STREET DIVISION
DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, MARCH 28, 2005

8:30 A.M.

(PAGES 3788 THROUGH 3933)

REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304
BY: Official Court Reporter 3788

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3789

I N D E X

Note: Mr. Sneddon is listed as “SN” on index.
Mr. Zonen is listed as “Z” on index. Mr. Auchincloss is listed as “A” on index.
Mr. Nicola is listed as “N” on index. Mr. Mesereau is listed as “M” on index.
Ms. Yu is listed as “Y” on index. Mr. Sanger is listed as “SA” on index.
Mr. Oxman is listed as “O” on index.

PLAINTIFF’S WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
LOPEZ, George	3793-Z	3816-M	3847-Z	
LOPEZ, Ann Serrano	3854-Z	3873-M	3898-Z	
SPINNER, Robert (Re-called) (Reopened)	3901-N			

1 E X H I B I T S
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PLAINTIFF'S NO. DESCRIPTION I.D. EVID.
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(The following proceedings were held in open court in the presence and hearing of the jury:)

THE COURT: Good morning.
THE JURY: (In unison) Good morning.
THE COURT: Counsel, you ready to proceed?
MR. ZONEN: Yes, Your Honor. We've asked permission of the Court, by stipulation of both sides, to take a witness out of order because of his schedule, if we could.
THE COURT: You may do that.
MR. ZONEN: We would call George Lopez to the stand, please.
THE COURT: Come forward, please. When you get to the witness stand, remain standing. Face the clerk here, and raise your right hand.

GEORGE LOPEZ
Having been sworn, testified as follows:

THE WITNESS: I do.
THE CLERK: Please be seated. State and spell your name for the record.
THE WITNESS: George Lopez; G-e-o-r-g-e, L-o-p-e-z.
THE CLERK: Thank you. 3792

MR. ZONEN: May I proceed?
THE COURT: You may.

DIRECT EXAMINATION
BY MR. ZONEN:
Q. Mr. Lopez, good morning.
A. Good morning.
Q. Sir, what is your current occupation?
A. I'm a comedian/actor.
Q. And do you have a television show at this time?
A. I do, named "George Lopez," on ABC.
Q. How long has that show been in progress?
A. The show has been on for four years.
Q. You're expected to go on for another four?
A. I'd like three more, and then to retire.
Q. Mr. Lopez, prior to going on television, what were you doing professionally?
A. I was a host of a radio program in Los Angeles, which was on 92.3, Mega 92.3, in the morning.
Q. For what period of time did you do that?
A. From November of '99 to August of 2000.
Q. Have you been a stand-up comic for some period of time?
A. 25 years.
Q. Are you familiar with The Laugh Factory in Los Angeles? 3793

A. Yes, sir, I am.
Q. And where is The Laugh Factory?
A. It's located on Sunset Boulevard --
Q. Is that --
A. -- in Hollywood.
Q. Is that a nightclub that features comedians?
A. It is.
Q. And have you performed there?
A. Many times.
Q. Over what period of time have you performed at The Laugh Factory?
A. I've probably performed there over the last 15 years.
Q. Do you know Jamie Masada?
A. Yes, sir, I do.
Q. What is Mr. Masada's association with The Laugh Factory?
A. He's the owner of The Laugh Factory.
Q. Are there other Laugh Factories other than the one on Sunset in Los Angeles?
A. I understand he opened one in New York.
Q. Have you ever appeared at the one in New York?
A. I have not.
Q. What is the comedy camp that's associated with The Laugh Factory? What's that?
A. Well, Jamie Masada, for years, has had a program where they took underprivileged youth and 3794

used comedians who worked the club as kind of
mentors to the kids, and they would teach them
stand-up, and also, you know, give them something to
do, you know, with writing jokes, and performing,
and stuff. And it was available during the day when
nothing really was going on at The Laugh Factory.
Q. Do comedians periodically come by and assist
with mentoring the children?
A. Yes, sir.
Q. What's the criteria for being a child
attending that club?
A. I think Jamie puts it out, and all -- you
don't really need to pay anything, it's just whether
you're interested and have, you know, a way to get
to The Laugh Factory, you can sign up.
Q. Do you know if these are children that are
either at risk or disadvantaged in some fashion?
A. Most of the time they're at risk and
underprivileged youth.
Q. Do you know how many years Mr. Masada has
been running the comedy camp?
A. It seems, to me, he's been doing it for
about seven or eight years.
Q. Does he periodically solicit the assistance
of the comedians from the entertainment community?
A. Yes, sir.
Q. And are you one of them?
A. I am one of them. 3795

Q. How many times -- and perhaps “times” is not quite the right way to ask it, but on which occasions have you assisted in working with the kids at comedy camp?
A. Over the years I’ve been asked several times. And I’ve only performed -- participated one time, and that was in the fall of ‘99.
Q. And by “one time,” does that mean one single occasion, or one camp?
A. One camp.
Q. And that’s for a period of time of how long, then?
A. Probably -- probably seven weeks.
Q. All right. Were you there for the bulk of those weeks?
A. Yes, sir.
Q. Do you know the Arvizo family?
A. I do.
Q. And do you know the children who are members of the Arvizo family?
A. Yes, I do.
Q. How do you know them?
A. Jamie asked me if I would participate in the camp; that there was a special Latino family that was underprivileged and they had requested me, and, you know, it was a sister and two brothers. And I said yes.
Q. What are their names? 3796

A. Davellin, Gavin and Star Arvizo.
Q. And for what period of time did you work with those three kids?
A. I worked with them in the fall, probably from the middle of November through the end -- the middle of October till the end of November.
Q. What year was that; do you recall?
A. I think it was ‘99.
Q. Okay. How old were the kids, as best you recall?
A. I think Davellin was probably 15. Star was, I think, nine or ten. And Gavin was 11.
Q. How did they do in the comedy camp?
A. They were pretty good. They were fearless. So, you know, they talked about a lot of things that I talked about, coming from an underprivileged background. And, you know, they were fearless in their performing. And they were kind of very sweet, you know, and very kind.
Q. Did you work with them the entirety of that time?
A. I did.
Q. Did you work with other kids, or just those three?
A. I did not. Just those three.
Q. How many sessions do you think you had with them?
A. You know, probably like seven. On Mondays, 3797

1 from like 3:00 in the afternoon to about 5:00. Just
2 two hours a week.
3 Q. Did you get to meet their mother?
4 A. I did.
5 Q. What is her name?
6 A. Her name is Janet.
7 Q. All right. Over the same period of time,
8 did you see her?
9 A. You know, I only saw Janet during the period
10 of time that we spent at The Laugh Factory.
11 Q. Was she there every time?
12 A. She was there.
13 Q. With the kids?
14 A. Every time.
15 Q. Do you know how they got there?
16 A. They took the bus.
17 Q. Did that impress you in some way?
18 A. Absolutely. I mean, you know, anybody that
19 rides the bus in Los Angeles is a hero to me.
20 (Laughter.)
21 Q. Do you know from how far away they were
22 coming?
23 A. They came from -- from East Los Angeles.
24 Q. To Hollywood; is that correct?
25 A. To Hollywood.
26 Q. During the period of time that you knew the
27 Arvizos in association with The Laugh Factory, did
28 Janet Arvizo ever ask you for any assistance in any 3798

1 way?
2 A. No.
3 Q. Did she ever ask you for money in any way?
4 A. No.
5 Q. This went on for a period of how many
6 months, to your knowledge?
7 A. Well, the whole time that I've known the
8 Arvizo family, it was probably eight months.
9 Q. Did you ever meet the kids' father during
10 the time that the kids were at the comedy camp?
11 A. Yes.
12 Q. And what is his name?
13 A. His name is David.
14 Q. At some point in time, did you become aware
15 of the fact that one of the children became ill,
16 seriously ill?
17 A. Yes.
18 Q. And how did that come about?
19 A. I got a phone call from Janet on my cell
20 phone, and, you know, as any mother would be,
21 completely distraught and was asking for help. And
22 I went to the hospital as soon as I found out that
23 Gavin was as sick as he was.
24 Q. The call then came from Janet?
25 A. Yes.
26 Q. And did you then go to the hospital?
27 A. I did.
28 Q. And what did you find when you got there? 3799

A. Well, I found Gavin in dire condition. I mean, he was really just clinging to life. And that's when I met David. I had never seen him before until I showed up at the hospital.
Q. You didn't meet him during the time -- maybe I'm wrong about this. During the time that the kids were at the camp, at the comedy camp, that period of a couple months --
A. Right.
Q. -- did you meet David Arvizo?
A. I did not.
Q. You met him for the first time at the hospital?
A. Yes.
Q. Do you know approximately how long after the completion of the comedy camp it was that Gavin became ill?
A. Probably six weeks.
Q. When you went to the hospital, did you go by yourself or with somebody else?
A. I took my wife with me.
Q. And your wife's name is?
A. Ann.
Q. Did you return to the hospital on other occasions to visit with Gavin?
A. Yes, I did.
Q. Over what period of time do you believe you went to the hospital? 3800

A. Over the next four months.
Q. Did you ever visit him at other locations
besides at the hospital?
A. Yes.
Q. Where did you visit him?
A. I visited him at his home in El Monte.
Q. All right. Do you know this to be his home
or his grandparents' home?
A. I think it was his grandparents' home.
Q. Can you describe that home in El Monte for
us?
A. It was a tract home in El Monte that -- it
was one of those places where -- probably a
two-bedroom house where the living and kitchen blend
into the same room, and it probably had every stick
of furniture they'd ever owned in it. And it had
this one room that looked like a suite out of the
Four Seasons.
Q. And what room was that?
A. That was Gavin's room.
Q. And the rest of the house?
A. Reminiscent of my own childhood. Very --
you know, kind of plastic over the couch, and
plastic runners on the floor, and birds, and dogs,
and things like that.
Q. Modest?
A. Modest, to say the least.
Q. All right. And the one room that Gavin was 3801

in, describe that for us, as best you can.
A. That room was prepared for Gavin because he was coming out of the hospital. I think Jamie had made it so that he could get a hospital bed. And it was -- the carpet was removed, and it was kind of like a cleanroom, like a place you'd go and it was sanitary. I think you even had to wear a robe to get in.
Q. For the entirety of that time that Gavin was ill that you were visiting him, did you have contact with his father?
A. I did.
Q. Did you have contact with his mother during that time?
A. I did not.
Q. Can you explain that? Do you know why?
A. You know, I don't know why. When Gavin was at The Laugh Factory, I dealt with the mother. And as soon as he got sick, the mother -- I never saw the mother again, and the only person I saw was the father.
Q. Did you ever speak with her on the telephone?
A. I did not.
Q. Did she ever contact you other than the initial phone call to tell you that Gavin was sick?
A. No.
Q. Did she ever ask you for money? 3802

A. She did not.
Q. During your dealings with the father at that point, during the number of months that Gavin was ill, did he ever ask you for assistance in any way?
A. Yes.
Q. And when do you think was the first time, if you know?
A. Probably the first time was maybe February or March of 2000, approximately. Yeah, around there.
Q. But this was after Gavin became ill already?
A. Yes.
Q. And in what way did he ask for assistance?
A. Well, you know, he made it known that he was, you know, strapped for cash. And at that point, I would help him with whatever I had on me. You know, I'd give him, you know, $40, $50 if I had it. Whatever I had, you know.
I would bring things to the hospital to try to get Gavin to eat, you know, different kind of drinks and stuff, energy drinks and things like that.
Q. On the two occasions that you went to the house in El Monte, did you see Janet on either of those occasions?
A. I did not.
Q. Did you ask where she was?
A. You know, I did not. I just assumed that 3803

she was working. I think she was a waitress, so when I didn't see her around Gavin, I just assumed that she was working.
Q. Did you ever ask David why Janet wasn't at the hospital?
A. I did not.
Q. During the period of time that Gavin was at the hospital, did you ever see Janet there?
A. I never saw her at the hospital.
Q. Okay. Now, the requests for money from David, was that a frequent request from him?
A. Yes.
Q. And did you give him money on a fairly regular basis?
A. Yes. Well, I wouldn't call it fairly regular. On occasion, I would say.
Q. How much would you give him?
A. You know, 40 here. Whatever I had. 30, 20. I bought him a pair of shoes one time. Stuff like that. But never, you know, a check for $10,000.
Q. Did you become aware of the fact that there was a fund-raiser, or maybe a couple fund-raisers, being organized at The Laugh Factory?
A. I was aware that there was a single fund-raiser.
Q. Is this a fund-raiser that you participated in?
A. You know, I -- I have to say I don't recall. 3804

Q. Have you participated in fund-raisers at The Laugh Factory before?
A. Yes.
Q. Is that something that's frequent at that location?
A. Yes, it is.
Q. When fund-raisers are held at The Laugh Factory, or any of the other entertainment clubs in Los Angeles, is there a way in which they do that? Is there kind of a traditional way that they raise money?
A. Well, the way they do it is Jamie would ask comedians to perform, and really that's your only obligation. You show up, you perform, and that's it. You're not -- really don't understand where the money goes to or any of that aspect of it. You're just there to really give your time. And then whatever they collect goes to whoever the beneficiary is of the fund-raiser.
Q. And by "what they collect," what is it that they're actually collecting?
A. The donation at the door, whatever the price of the ticket is.
Q. All right. And can that vary?
A. Oh, yeah.
Q. They can make it whatever they want?
A. Whatever it is.
Q. All right. Did David talk with you about 3805

doing a fund-raiser on his behalf, or, rather, his child's behalf?
A. Yes.
Q. And what was the nature of that discussion? What is it that he was asking you to do?
A. He was asking me to take care of a fund-raiser for Gavin, which I was more than happy to do. But then it became apparent to me that it wasn't about Gavin anymore. I was about how Gavin was and how he was feeling. I wasn't about money for Gavin. And it seemed to me at that time that David Arvizo was more interested in the money than he was about his son.
Q. All right. Was David working at the time, to your knowledge?
A. To my knowledge, I don't think he was working.
Q. Did he ever express to you any concerns about insurance, medical insurance?
A. I was always led to believe that they had no insurance whatsoever.
Q. All right. And that was from David?
A. Yes, sir.
Q. You never had a conversation with Janet about that subject?
A. Never.
Q. She never asked you for money?
A. Never did. 3806

Q. All right. Did you come to an understanding with David that you would assist in some kind of a fund-raising effort?
A. Yes.
Q. And -- go ahead. That --
A. Okay. Thanks.
THE BAILIFF: You have to -- there you go.
THE WITNESS: (To the court reporter)
Hello.
Uh-huh.
Q. BY MR. ZONEN: What was the nature of the fund-raiser that you were going to do, and where?
A. I was going to do a fund-raiser and use the radio to raise money for Gavin and I was going to do it at The Ice House in Pasadena. And I was going to take care -- I was going to do it myself. I was going to plan the whole thing. And because of my schedule at the radio, we kind of got a little behind. And David became, you know, pretty aggressive about when it was going to happen and how much he thought we could raise and that kind of stuff.
Q. What do you mean by “pretty aggressive”?
A. A lot of phone calls. A lot of, “When’s it going to happen?” And, I said, you know, “I’m working right now, man. We’re trying to put it together. We’re trying to get guys to perform.” And every call was about the same thing. 3807

Q. Did he always inquire about the money that you would raise?
A. Yes, he did.
Q. Did he ask about specific amounts?
A. Yeah, he did. He asked about how much I thought we could raise.
Q. What did you tell him?
A. I told him that with those things, you never know. I mean, you never know how much you're going to raise. And really, when I do fund-raisers, it was never about, "How much money do you think you could raise?" It was about getting it off succesfully. It wasn't about the bottom line. It was about doing a fund-raiser.
Q. Did he ever talk to you about doing a blood drive on behalf of his son?
A. Yes.
Q. And when was that going to be?
A. When -- when we -- when we found out Gavin was -- was ill and needed blood, my wife was instrumental in kind of arranging a smaller blood drive for Gavin.
Q. Okay. Was that something that involved David Arvizo --
A. I don't believe so.
Q. -- or did that involve your wife?
A. My wife.
Q. That wasn't requested by David? 3808

A. It was not.
Q. Do you know if Janet Arvizo had anything to do with that?
A. I don't think so.
Q. Okay. Was that done at The Laugh Factory, or someplace else?
A. You know, I think it was done at the Red Cross. And you just say that the blood is going to a certain person. That's how they do it.
Q. Now, as the -- as time went on in preparation for this benefit at The Ice House, did you get more and more calls?
A. I did.
Q. More and more frequently?
A. I did. Yes.
Q. Was he asking pretty much the same thing?
A. Always.
Q. You've dealt with other benefits for other people in need, have you not?
A. Yes, I have.
Q. Was there something unique about David's behavior as compared to the others?
A. Yeah. I mean, the guy was like -- you know, he was -- it was more than one call, and it was always about the same thing. And he'd call while I was on the radio, while I was working. I couldn't talk to him. And after a while, it became -- I told my wife that it was -- I told my wife Ann that it 3809

was becoming apparent to me that it wasn't a good idea to have the fund-raiser. I -- I decided not to do it because I didn't like the way it was kind of turning out.
Q. Was there a particular event that occurred that put you over the top on this, made you decide not to do it?
A. Yes.
Q. What was that?
A. On May 5th of that year, I think 2000 -- whatever the year -- 2000 -- I think, to the best of my knowledge, it's 2000. I was doing a show at the Acapulco Restaurant on May 5th from 5:00 to 10:00 in the morning in El Monte.
And at ten o'clock, he approached me outside of the restaurant, right in front of the restaurant, and asked me aggressively what was the deal with the fund-raiser.
And I told him that I didn't think it was going to happen. And he said, "What do you mean it's not going to happen?" And I said, "It doesn't look like it's going to happen." And then he -- his tone changed, and we had words, and that was the last time I ever saw him.
Q. Did he ever call you again thereafter?
A. No.
Q. All right. Was there an event that preceded that that affected your decision? 3810

A. Yes. There was a situation with a wallet at my house.
Q. All right. Let's talk about this. Let's start with, first of all, did you ever take Mr. Arvizo and any of the kids, or Gavin, out shopping?
A. I did.
Q. All right. Did that begin with a visit to your home?
A. Yes, it did.
Q. And your home at that time was in what area?
A. In Sherman Oaks, California.
Q. Have you moved since then?
A. I have.
Q. Who came to your home with David Arvizo?
A. Gavin.
Q. Only Gavin?
A. I think Star might have come also.
Q. Okay. Do you recall if Davellin was there?
A. She was not there.
Q. Where did you go that day? What did you do?
A. Well, I picked them up in El Monte. I brought them to the house, and they played in the backyard for a little bit. And then I took them to Pizza Hut and I took them to the mall, and we walked around the mall a little bit. And then I brought them home, brought them to the house and they used the rest room, and then I drove them back to El Monte. 3811

Q. All right. Was Gavin still ill at this
time, or had he already gone into remission?
A. He had kind of gone into a little remission.
He was out of the hospital.
Q. But he was still going back and forth for
treatment?
A. Yes.
Q. How was his appearance at that time?
A. He was kind of energetic. I think he was --
you know, he was okay. He was walking around. He
wasn't, you know, as frail as he was when he was in
the hospital. He was doing okay.
Q. All right. And David was there; is that
right?
A. Yes.
Q. Did you notice anything unusual about their
behavior when they were in the stores?
A. Well, you know, like any kid in the mall,
you know, Gavin wanted everything, and David kind of
was off to the side, a little bit in the back, kind
of conspicuously out -- just out of the way. He
wasn't really with us. Kind of off to the side.
Q. Was Gavin asking for things?
A. Yes.
Q. And were you purchasing things for him?
A. Not everything, but a few things.
Q. Okay. Did David's behavior strike you as
unusual? 3812

A. Yeah, I think so.
Q. In what way?
A. In that he was, you know, a little -- he was a little, you know, distant. He was distant but yet, you know, always a little tense, you know. He was a little -- not as relaxed as somebody would be, I guess.
Q. Did you feel he should have been a little more responsible as a parent while his child was asking you for things?
A. Yeah. He wasn't anywhere around.
Q. All right. Now, when you finally got back home, and David left, what did you notice in the house?
A. Well, I took them home, and I came back. And we had this room that really a lot of people have. It's very popular with Mexicans. We have a room that's no one's allowed to sit in, and everything stays -- everything stays put. And it was my -- our house, and even I wasn't allowed in that room.
So on the mantle, there's nothing on the fireplace mantle except this brown and black wallet. So as I walk in the house, your eyes immediately go to the mantle. It's the first thing you see. So I see this wallet, and I pick it up and it's not mine, and I open it up, and it has an I.D., Gavin's I.D. And I look, and there's a $50 bill in 3813

it, one $50 bill.
So I go to the kitchen, where my wife is,
and I say, “Ann, Gavin left his wallet.” So we call
Gavin, tell him that he left his wallet. They say
to drop it off at The Laugh Factory. We end up
sending it in the mail so that we can get rid of it.
And then sometime later, I understand
through Jamie Masada at The Laugh Factory, that
David Arvizo told Jamie Masada, who owns The Laugh
Factory, that I had taken $300 out of Gavin’s
wallet.
Q. Okay. Janet Arvizo never accused you --
A. No.
Q. -- of taking money from her son’s wallet; is
that correct?
A. No. That’s correct.
Q. Did you ever have a conversation with Janet
Arvizo about the wallet?
A. Never.
Q. All right. Did Janet Arvizo ever ask you
for money?
MR. MESEREAU: Objection; asked and answered
three times.
THE COURT: Sustained.
Q. BY MR. ZONEN: Following this event, the
conversation with Mr. Masada --
A. Yes.
Q. -- about the wallet, did you ever have 3814

another conversation with David Arvizo?
A. I never did. Oh, after the wallet -- after the wallet, I had the exchange on May 5th.
Q. Now, when you had the exchange on May 5th, did you already know -- had you already had the conversation with Mr. Masada about the wallet?
A. My wife did.
Q. All right. Did you know about it at the time --
A. I did.
Q. -- of the conversation? Was that one of the reasons that you no longer wished to be associated with them?
A. You know, that might have put me over the top.
Q. Were you involved in any fund-raisers for the Arvizo family at all?
A. You know, I can't recall.
Q. The one that was at The Laugh Factory, you don't have a recollection of having been there?
A. You know, I think early on I may have. But I really -- I can't remember. I think -- I think the one that Fritz Coleman hosted was the one that I performed at. But it was early on, so I really can't say.
Q. Other than the one that you organized, or began to organize at The Ice House, were you organizing any other fund-raisers for the Arvizo 3815

family?
A. No.
Q. Did you give any money to any other member of the family of the Arvizo family, other than David Arvizo?
A. I did not.
MR. MESEREAU: Objection; misstates the evidence.
THE COURT: Overruled. The answer was -- is in. Next question.
MR. ZONEN: Let me have just one moment, please.
Q. In Janet's telephone call to you when she announced that her child was ill, did she ask for your assistance at that time in that conversation?
A. You know, other than --
MR. MESEREAU: Objection; asked and answered.
THE COURT: Overruled.
You may answer.
THE WITNESS: Can I answer?
Q. BY MR. ZONEN: Yes.
A. Other than just finding out her son was gravely ill and didn't know what to do, that's what I got from the call.
MR. ZONEN: Thank you. I have no further questions.
THE COURT: Cross-examine? 3816

MR. MESEREAU: Yes, please, Your Honor.

CROSS-EXAMINATION

BY MR. MESEREAU:

Q. Good afternoon, Mr. Lopez.

A. Good afternoon.

Q. My name is Tom Mesereau, and I speak for Michael Jackson.

We've never spoken before, right?

A. No, sir.

Q. Now, you interviewed with the Santa Barbara Sheriffs on -- last Friday, correct?

A. I did.

Q. And who did you interview with?

A. I interviewed with the gentleman who was just asking me the questions.

Q. That's Prosecutor Zonen?

A. Yes.

Q. Okay. And how long did you meet with Prosecutor Zonen?

A. Me personally?

Q. Yes.

A. 25 minutes.

Q. And were you with your attorney?

A. I was.

Q. And your attorney is sitting here today, right?

A. Yes. 3817

Q. Mr. Blancarte?
A. Yes, sir.
Q. Okay. And you didn't want that interview to be tape-recorded, correct?
A. That's correct.
Q. So as far as you know, there was no tape-recording of what you said, right?
A. That's correct.
Q. Okay. Now, you told Prosecutor Zonen that you think you gave David Arvizo, in total, something less than $400, right?
A. Right.
Q. And this had to do with moneys you gave him at the hospital primarily; is that correct?
A. Yes, sir.
Q. But you also told Prosecutor Zonen that you went shopping with David and Gavin, and Gavin kept asking you to buy him things in front of his father, correct?
A. Yes.
Q. And you found it kind of strange that the father never told him to stop doing that or spoke up, right?
A. Right.
Q. Okay. And did you buy him anything while you were shopping with Gavin and the father?
A. Yes.
Q. Okay. What did you buy Gavin? 3818

A. You know, we took him to the Discovery Store and bought a few -- maybe like a race car track, and a ball that extends, and things like that.
Q. Okay. And how often would you buy -- well, let me rephrase that. How often did you go shopping with Gavin and David?
A. That was the only time.
Q. Just one time?
A. Just one time.
Q. And to your knowledge, how many times, if you remember, did Gavin ask you to buy something for him in front of his father?
A. Four.
Q. Okay. Did you buy whatever he wanted every time?
A. Well, I -- no.
Q. Okay. Okay. You bought some of the things he wanted and didn't buy other things he wanted?
A. Kind of expensive.
Q. Didn't you also bring gifts to the hospital when Gavin was ill?
A. Yes.
Q. And what gifts did you bring to the hospital?
A. You know, cast-iron cars and things like that.
Q. Okay. But the money -- the actual money you donated was to David directly, correct? 3819

A. Yes.
Q. Did you ever give Gavin anything directly?
A. No.
Q. Okay. Now, do you remember signing a declaration under penalty of perjury in this case on February 16th, 2005?
A. Um, yeah.
Q. Do you remember testifying under penalty -- excuse me, not “testifying.” Do you remember swearing under penalty of perjury the following: “I never provided money to the Arvizos or any of them”?
A. Yes.
Q. Well, that wasn’t true, was it?
A. Well, at that time I couldn’t recall.
Q. So on February 16th you couldn’t recall, under penalty of perjury, if you gave any money to any of the Arvizos, correct?
A. That’s right.
Q. But when you met with the prosecutor on Friday, you suddenly recalled that you gave David money on a periodic basis, right?
A. Right.
Q. You gave him, what, no more than 40 or 50 bucks at a time, correct?
A. Right.
Q. And you thought the total was less than $400, right? 3820

A. That's correct.
Q. Okay. Now, from what you said today --
correct me if I'm wrong, I think you said that you
were involved in planning for a fund-raiser, but
never went through with it?
A. That's correct.
Q. Okay. And you didn't go through with it
because David's activities offended you, correct?
A. That's correct.
Q. You thought he was leaning on you too hard
for money, right?
A. That's right.
Q. And was it your understanding that he was
married to Janet at that time?
A. Yes.
Q. Okay. Do you remember signing another
declaration under penalty of perjury in this case on
January 18th, 2005?
A. Yes.
Q. And you said, "I have not involved" -- "I
have not been involved, appeared or participated in
a fund-raiser for the minor and alleged victim in
the Michael Jackson case," right?
A. That's correct.
Q. That wasn't totally truthful, was it?
A. I could not recall.
Q. Okay. So on January 18th you couldn't
recall if you had any involvement in a fund-raiser, 3821

but after you signed that declaration under penalty
penalty of perjury, you remembered that you were
involved in some of the early planning stages; is
that correct?
A. Well, I signed the -- I couldn't recall, and
then I, you know, remembered.
Q. Okay. Okay. So that's two declarations you
signed under penalty of perjury in this case, right?
One on January 18th, and one on February 16th,
right?
A. Yes.
Q. Okay. Okay. And after signing those
declarations under penalty of perjury, you then
remembered some other facts that, had you known at
the time, you wouldn't have signed the declaration?
A. Well, at the time I couldn't recall.
Q. Okay. Okay. Let me go back to your
discussion with Prosecutor Zonen. Okay?
Now, you indicated to him that you first met
the Arvizo children at the comedy camp, right?
A. That's right.
Q. And that's where you met Janet, right?
A. That's right.
Q. And to your knowledge, Janet was always at
comedy camp when you were there and saw the
children, correct?
A. Correct.
Q. And you told Prosecutor Zonen that the 3822

children would act on stage, correct?
A. That's right.
Q. And they would often act out little themes
about their poverty, correct?
A. That's right.
Q. They would talk about not having any money,
right?
A. Uh-huh.
Q. They would talk about roaches in their home,
correct?
A. Correct.
Q. And Janet would be sitting there, right?
A. Yes.
Q. You also told Prosecutor Zonen that Janet
told you a story about her children diving into a
fountain for pennies, correct?
A. That's correct.
Q. Now, after you had finished coaching the
kids at The Laugh Factory, did you ever see Janet
again --
A. I did not.
Q. -- to your knowledge?
A. No.
Q. Okay. So after you finished coaching the
kids at The Laugh Factory, there was a period of
time that elapsed between your coaching the kids,
and your hearing from Janet on the phone, correct?
A. That's correct. 3823

Q. She called you up very upset that Gavin was seriously ill, right?
A. Right.
Q. And asked for assitance of some kind. I'm not saying it was financial assitance, but she asked you to help, right?
A. More emotional assistance.
Q. But she also asked you to go to the hospital, correct?
A. Right.
Q. You went to the hospital?
A. Right.
Q. You went there many times to help Gavin when he was ill?
A. Yes.
Q. When you first got to the hospital to see Gavin, you saw David; is that correct?
A. That's correct.
Q. And every time you went to the hospital to see Gavin, you never saw Janet, you always saw David, right?
A. Right.
Q. Okay. How many times do you think you visited Gavin at the hospital when you saw David?
A. Approximately ten.
Q. Okay. And these are the visits when you often brought gifts for Gavin, right?
A. Right. 3824

Q. You brought food, right?
A. Yes, sir.
Q. And what else did you bring him?
A. You know, the car occasionally. But other times I just -- I just went.
Q. Okay.
A. You know, I didn't bring something every time I went.
Q. Now, would David try to hit you up for money at the hospital?
A. What he would do is he would, you know, imply how bad off he was doing, you know.
Q. And that was pretty often, wasn't it?
A. Yes.
Q. Okay.
A. Every time I saw him.
Q. And you never discussed his financial situation with Janet, because she never was around, correct?
A. That's right.
Q. Now, after you had helped David with the cash you gave him, and after you had helped Gavin with the gifts you bought him, at some point Janet called you up and thanked you for what you'd done for the family, correct?
A. I don't recall getting a phone call from Janet.
Q. Didn't you tell the prosecutors that at some

point Janet called you up and thanked you for the
nice things you'd done for the family?
A. I didn't speak to her.
Q. You never -- she never called you and said
thank you?
A. She never called me.
Q. Okay. Okay. Now, you thought the family
lived in El Monte, correct?
A. Yes.
Q. All right. And why did you think they lived
in El Monte?
A. Because every time I went to see Gavin,
that's where I went, to the -- to the grandparents'
house.
Q. And why did you go to that location? Did
someone tell you that's where they lived?
A. That's where David told me to go.
Q. And you assumed that that's where they
lived, right?
A. Yeah.
Q. Okay. You never saw David at comedy camp,
correct?
A. That's correct.
Q. All right. It was always Janet. But
suddenly when he got ill, it seemed like it changed.
You always saw David and you never saw Janet?
A. That's right.
Q. Do you know what time of day you often went 3826

to the hospital?
A. I usually went after I got off the radio,
probably around 11:00 or 12:00.
Q. Now, when you were coaching the kids at
comedy camp, you often took them to eat, right?
A. Yes, sir.
Q. And Janet would be with you, correct?
A. That's right.
Q. And you would treat the whole family to
food, right?
A. Well, snacks.
Q. Yeah. But, I mean, you did that quite often
for them, didn't you?
A. Yes.
Q. And they always appeared grateful for what
you had done?
A. Yes, sir.
Q. They seemed like a nice family, right?
A. Yes.
Q. Okay. All right. You participated in their
graduation ceremony at the comedy club, right?
A. Yes.
Q. And that was, what, about three or four
months in duration?
A. Yes.
Q. All right. And approximately what months
were they?
A. You know, I can't recall what month that 3827

1 was.
2 Q. Okay. Now, between the comedy camp ending
3 and Janet calling you to talk about the hospital,
4 how much time elapsed, if you remember?
5 A. Six weeks.
6 Q. Okay. All right.
7 A. Over the holidays of that year. Probably
8 six weeks.
9 Q. And Janet asked you to come and spend time
10 with Gavin, right?
11 A. Well, he was -- you know, he was sick, so I
12 went to see him.
13 Q. But she asked you to go spend time with him,
14 right?
15 A. You know, I don't know if she particularly
16 asked. But when -- you know, I was a fan of
17 Gavin's. So when he was not well, I went to the
18 hospital to see him as a friend.
19 Q. Would it refresh your recollection if I just
20 show you a police report where it says you told the
21 police "Janet asked George if he would come spend
22 time with Gavin"?
23 A. It could.
24 MR. MESEREAU: May I approach, Your Honor?
25 THE COURT: Yes.
26 Q. BY MR. MESEREAU: Mr. Lopez, have you had a
27 chance to see that report?
28 A. I saw it. 3828

Q. Okay. Does it refresh your recollection
about what you told the sheriff?
A. It does not.
Q. It does not?
A. I mean, you know, if she asked me to -- you
know, here's the difference. I mean, did she
formally ask me? She said Gavin was ill and I went
to the hospital. There wasn't a formal invitation.
Q. Okay. But you didn't tell the sheriffs
that, "Janet asked George if he would come spend
time with Gavin"?
A. You have to repeat the question.
Q. Yeah, okay. I'm asking you if, in your
interview last Friday, you told the sheriffs Janet
asked you if you would come spend time with Gavin in
the hospital?
A. Well, in a sense, that's what that is.
That's what that phone call was.
Q. Okay. Okay. Now, you began visiting Gavin
with your wife, correct?
A. My wife went the first time, and on a couple
other occasions maybe. But for the most part, I
would go right after I got off the radio, so I would
go by myself. I would try to sneak away to see
Gavin as much as I could, when I could.
Q. Right. And that's when you brought him
gifts and snacks?
A. Well, not every time, but on occasion. 3829

Q. Okay. Did you find it strange that you never saw Janet at the hospital?
A. Well, you know, I -- I mean, I knew she was a waitress, so I thought -- I really thought she was working. I'd just say that I never really -- I wasn't there all the time, so I didn't know whether she was there when I wasn't there. But every time I went, she wasn't there, so I just figured that she was always working.
Q. You really don't know if she was working, do you?
A. I don't know.
Q. Okay. Okay. And you may have thought she was a waitress, but you really don't know where she was waiting tables, right?
A. She never served me.
Q. Okay. And never told you where she was working, right?
A. No.
Q. And David never told you where she was working, right?
A. Never did.
Q. Okay. Okay. How agressive was David in asking for money?
A. You know, it was -- it was pretty aggressive. I mean -- I mean, when you're two guys talking, and the subject always comes up, it -- you know, you kind of get turned off to it. Every time 3830

1 we spoke, it was always about -- really about money.
2 Q. And he always said he had no way to pay the
3 family's bills, right?
4 A. That's right.
5 Q. And you gave him little amounts that you had
6 in your pocket at the time?
7 A. Yeah, I only had little amounts at the time.
8 Q. Okay. And you -- and you told the sheriffs
9 you never turned down -- David never turned down any
10 gesture of kindness you offered him?
11 A. Never.
12 Q. He always wanted money, didn't he?
13 A. He did.
14 Q. Okay. Okay. You thought the largest money
15 you gave him at one point was 80 bucks?
16 A. Probably around there, yeah.
17 Q. Okay. All right.
18 A. I literally would give the guy everything I
19 had in my wallet and just figured I'd get more
20 later.
21 Q. Now, did he ever tell you that he was giving
22 any of his money to Janet?
23 A. Never.
24 Q. Okay. You don't know one way or the other,
25 do you?
26 A. I don't.
27 Q. Okay. Now, do you know Louise Palanker?
28 A. You know, I don't know Louise Palanker. 3831

Q. Ever heard her name?
A. Yeah, I heard her name here.
Q. Okay.
A. And on E!
Q. Okay. You don't know anything about her --
you don't know anything about her giving 10,000
bucks to Janet, do you?
A. I don't.
Q. You don't know anything about her giving
10,000 bucks to David, do you?
A. No, I don't.
Q. Did you ever hear about that?
A. You know, I think it's odd when a comedian
has $10,000 period, you know, so I never --
(Laughter.)
Q. All right. Okay. Now, at some point David
started bragging to you about Neverland Ranch,
didn't he?
A. Yes.
Q. And you thought his attitude changed,
correct?
A. Yes.
Q. You thought he got kind of - what's the
word? - snooty or snobby? Would that be the right
word?
A. Enamored.
Q. Enamored. That's how you described David's
attitude after he told you the family had gone to 3832

Neverland Ranch?
A. Yes.
Q. And he told you that Michael Jackson had given a truck to his family, correct?
A. That's correct.
Q. Okay. You described him to the sheriffs as "smitten" by his new-found association with Michael Jackson, correct?
A. Yes.
Q. Now, you learned at some point that Michael Jackson was calling Gavin at the hospital, right?
A. Yes.
Q. Okay. And someone told you he was calling him at -- sometimes late at night and having long chats with Gavin, correct?
A. Right.
Q. Did David tell you that?
A. I think maybe -- yeah, I think maybe David did.
Q. All right.
A. In the room, in the hospital room.
Q. At some point, you thought David was extremely engrossed with money and possessions, true?
A. That's correct.
Q. Because when you visited them in El Monte, he showed off that room with the DVD and all the rest, correct? 3833

A. That's right.
Q. That's the room that you described as like the Four Seasons, right?
A. Right.
Q. Did you ever know who paid to renovate that room?
A. No.
Q. Okay. You don't know if the person who renovated that room was paid or not, correct?
A. I did not know that.
Q. Okay. Did David ever talk about how that room became so nice?
A. No. My assumption was that it was Jamie Masada that had arranged that.
Q. But you don't know for sure?
A. But I don't know for sure.
Q. And if Jamie arranged it through Louise Palanker, you don't know about that?
A. I don't know about that.
Q. And if the contractor who did it was never paid, you don't know about that either?
MR. ZONEN: I'm going to object as speculative and testimony. The witness has repeatedly said he doesn't know.
THE COURT: Sustained.
MR. MESEREAU: Okay.
Q. Now, you told the sheriffs, Mr. Lopez, you thought David Arvizo was particularly enamored with 3834

1 the big-screen television and the Nintendo, correct?
2 A. Yes.
3 Q. You said you noticed this to a small degree
4 with the children as well, correct?
5 A. Yes.
6 Q. But not to the extent that David seemed like
7 he wanted to impress you with his new possessions?
8 A. Very pleased.
9 Q. Okay. You told the sheriff that David --
10 everything about David seemed to be about money,
11 right?
12 A. Yes.
13 Q. Okay. You went to the El Monte address
14 about two times, correct?
15 A. That's right.
16 Q. Okay. And David was there both times,
17 right?
18 A. Yes.
19 Q. Who else was there during those visits?
20 A. The grandparents.
21 Q. Okay. Did you ever see the children there?
22 A. I did.
23 Q. Okay. Were all three children there, to
24 your knowledge, on both visits?
25 A. You know, I can't recall.
26 Q. Okay.
27 A. But I think Star was always kind of around
28 Gavin. 3835

Q. Okay. Did you see Davellin?
A. On occasion, but I don't remember her being there.
Q. Now, who arranged your visits to the El Monte address?
A. I would arrange them with David.
Q. Okay. Okay. When you went shopping with David and Gavin, were Star or Davellin present?
A. I think Star was.
Q. Okay. But you seemed, in your interview with the sheriffs, to particularly recall Gavin asking you to buy things for him, right?
A. Yes.
Q. You never mentioned to the sheriffs that Star was asking you to buy things for him, correct?
A. No.
Q. And you thought it rather odd the father never just said a word as the son looked at you and said, "Buy this for me"?
A. It would have been nice if he stepped in.
Q. But he never did, right?
A. Never did.
Q. Did you ever talk to him about it?
A. No.
Q. Ever ask him, "Why are you letting your son just keeping leaning on me like this"?
A. He's not my kid.
Q. Okay. Okay. Now, would Gavin just 3836

typically come up to you and point at something and say, “Would you buy that for me?”
MR. ZONEN: I’ll object to “typically.”
Talking about one event.
MR. MESEREAU: I’ll rephrase it.
No, it’s not -- Your Honor, we’re not talking about one event. It’s one day.
MR. ZONEN: Then it’s vague for exactly that reason.
Q. BY MR. MESEREAU: You went shopping with him on one particular day, right?
A. Right.
Q. You went to a number of stores, correct?
A. Yes.
Q. Gavin was with you, right?
A. Right.
Q. David was with you?
A. Right.
Q. And you think Star was with you?
A. I can’t remember, but I think.
Q. And in various stores, Gavin would point to items and ask you to buy them for him?
A. You know how a kid does in a store, “Can you buy me this?” And --
Q. Yeah.
A. -- “Oh, I really” -- it’s the old, you know, “Oh, I really like this.”
Q. Well, but he wasn’t looking at his father 3837

1 and saying, “I really like this.”
2 A. No.
3 Q. He was always looking at you, with the
4 father standing right there, correct?
5 A. Yes.
6 Q. Okay. Okay. And you told the sheriffs,
7 “David seemed to intentionally stand back and make
8 no effort to rein in Gavin’s requests”?
9 A. That’s correct.
10 Q. You thought that was strange, right?
11 A. Seemed odd.
12 Q. Did you take them to lunch that day?
13 A. Yes, sir.
14 Q. Okay. And did you take them to lunch on any
15 other days; do you know?
16 A. No.
17 Q. All right. Now, where did you see the
18 wallet?
19 A. The wallet was on the fireplace mantle of my
20 house. It was the only thing on the mantle.
21 Q. And when you saw it, how did you think it
22 got there?
23 A. You know, it never occurred to me how it got
24 there, because, you know, they -- nobody played in
25 that room, so it was kind of odd that a wallet would
26 end up on that -- on that mantle.
27 Q. And how high up was the mantle?
28 A. You know, shoulder height. 3838

Q. Taller than Gavin, wasn't it?
A. At that time, maybe.
Q. So, did it seem peculiar to you that suddenly a wallet's just lying there?
A. Well, being that in that room, really nothing's supposed to be in there, yeah.
Q. Had you seen Gavin or David in that room?
A. No.
Q. And how long had they been at your house?
A. Well, the beginning -- when I first dropped them off, they played in the backyard probably about 45 minutes to an hour. And then we went to the mall and then came back. They just really came back to use the rest room, because the drive was a little far, so not much time.
Q. And you testified, I believe, there was a $50 bill in Gavin's wallet?
A. Yes, sir.
Q. And there was also an I.D. card, correct?
A. A school I.D.
Q. That was for Gavin, right?
A. Yes.
Q. And you told the sheriffs you thought it was odd that Gavin would have $50 in a wallet, right?
A. Yeah.
Q. Not to mention the wallet sitting up on the mantle in that room?
A. Right. 3839

Q. Okay. And what's the first thing you did when you opened the wallet, saw that Gavin's name was on an I.D. card, and there's a $50 bill in it? What's the first thing you did?
A. The first thing I did was show it to my wife, who was in the kitchen.
Q. And then what did you do?
A. Then we called the Arvizo house and made arrangements to get the wallet back to them.
Q. And how did you get it back to them?
A. We sent it.
Q. Did you call the Arvizo home?
A. Yes.
Q. Who did you talk to?
A. My wife called, and I think she spoke to David.
Q. Okay. David said, "Just send it to the house"?
A. Yeah.
Q. Okay.
A. Well, he wanted us to take it to The Laugh Factory, but we ended up sending it to the house.
Q. Who first talked to you about planning the fund-raiser for Gavin?
A. You know, at that time I was having conversations with David, so -- and being in the hospital, so I think it was between David and I and my wife. 3840

Q. Okay. And you told the sheriffs David was particularly persistent and aggressive about how much money they were going to make, right?
A. Yes, sir.
Q. And you are still never seeing Janet during any of this, right?
A. No. That's correct.
Q. Never see her at the hospital, and she never goes to your house, right?
A. That's right.
Q. At some point, your wife confronted David about his constant requests for money, right?
A. That's right.
Q. Okay. And he got kind of nasty, didn't he?
A. He did.
Q. Okay. Were you there?
A. I was not there.
Q. Okay. But you heard about it?
A. I did.
Q. And that sort of started a downhill slide in your relationship with the whole family, right?
A. Yes, sir.
Q. At some point you cut off all relationships with that family, correct?
A. That's true.
Q. And you called off any work that you were doing on the benefit?
A. That's right. 3841

Q. All right. And I think you said David tried
to repeatedly call you at the radio station, right?
A. That's correct.
Q. Did you take his calls?
A. I did not.
Q. Okay. Did you tell anybody to tell them,
"Stop the calls"?
A. Well, he called usually when we were on the
air, but I wasn't going to take the call after his
conversation with my wife.
Q. Okay. Now, at some point you told David
there's not going to be any benefit, right?
A. That's right.
Q. And actually, that wasn't really correct,
was it? You just weren't going to work on it
anymore?
A. I wasn't going to do the one that I was
planning.
Q. There was some others being planned you knew
about?
A. I think so, yeah.
Q. How did you know about them? Through Jamie?
A. Through Jamie.
Q. Did Jamie seem to be your main source of
your information about the Arvizo family, other than
what you saw directly?
A. Yeah, that's how I met them. And pretty
much, you know, everything was kind of going through 3842

Jamie. He was kind of the guy that everybody talked to.
Q. Okay. David tried to make you feel guilty about not helping Gavin at that point, didn't he?
A. Um, yes. At the point of May 5th, he did.
Q. And you told him basically he's an extortionist, correct?
A. I did.
Q. That wasn't a pleasant conversation, was it?
A. It was not.
Q. Okay.
A. And I don't use big words like that, you know.
(Laughter.)
Q. All right. Now, after you called him an extortionist, what happened next?
A. You know, it was pretty -- it was a pretty heated exchange. And after that, he left. And, you know, I got -- I got to be honest with you, after that, I had no conversations with Gavin or any of the Arvizos after May 5th of that day.
Q. You then learned at some point from Jamie Masada that Jamie had given David some money supposedly to make up for what he claimed was lost from the son's wallet?
A. That's right.
Q. And the implication was that you had taken it -- 3843

A. That I had taken it.
Q. And you never took a thing, right?
A. I did not.
Q. Were you upset with Masada that he would even pay him something?
A. I was. Yeah, I was.
Q. Did you complain to Masada?
A. I did. I said, “How could you do that?”
Q. Okay. And he basically said to you, he wanted to make peace, or words to that effect?
A. Words to that effect.
Q. Okay. Okay. Now, are you certain you never performed with Fritz Coleman at a benefit for Gavin?
A. You know, I’m not certain.
Q. So you may have done that?
A. I may have.
Q. Okay. Okay. Now, did anyone ever mention to you anything about a J.C. Penney lawsuit while you knew the Arvizos?
A. You know, I did not know about that until -- until after my -- all ties were broken.
Q. Okay. And how did you learn about the J.C. Penney lawsuit?
A. I think I learned about that from --
MR. ZONEN: I’m going to object as irrelevant and hearsay.
THE COURT: Sustained.
Q. BY MR. MESEREAU: Okay. Do you recall, 3844

sometime after your relationship soured with the Arvizos, Janet gave you a key chain?
A. She did.
Q. And approximately when was that?
A. That might have been maybe six months after our -- my dealings with David.
Q. Okay. So six months after you pretty much severed your ties with the family?
A. Yeah, a key chain showed up.
Q. She approached you, correct?
A. You know, I can't recall how I got it.
Q. She gave you a key chain as a way of thanking you for what you'd done for the family, correct?
A. That's correct.
Q. Do you know where that happened?
A. You know, I don't. I can't remember.
Q. Okay. Okay. Do you know approximately when it was?
A. No.
Q. Okay. Do you remember speaking to her when she gave you the key chain?
A. You know, I can't recall.
Q. Okay. But you told the sheriffs, in your mind, it was her way of thanking you for what you had done for the family. You told them that in your interview, correct?
A. I think so. 3845

Q. Okay. Now, obviously it goes without saying
if Janet and David were discussing ways to get money
from people, you weren't there?
MR. ZONEN: I'll object as speculative.
THE COURT: Sustained.
Q. BY MR. MESEREAU: You spent very little time
in their home, correct?
A. That's correct.
Q. And you said they were from East L.A.
Did you mean El Monte?
A. You know, I only know El Monte. So if I
said "East L.A.," I meant El Monte.
Q. When you say "El Monte," you don't mean East
L.A. is El Monte, do you?
A. Well, you know, any Chicano knows better
than that.
Q. Well, let me ask you this: You said --
A. That's Chicano 101. East L.A. is not El
Monte.
(Laughter.)
Q. Right. Well, let me ask you this: You said
that when you first started at the comedy club, they
were taking a bus from East L.A., right?
A. Right.
Q. But you said when you visited their home,
you went to El Monte.
A. Yeah.
Q. So you never really visited a home for the 3846

1 Arvizos in East L.A., correct?
2 A. I did not.
3 Q. But they told you they were from East L.A.,
4 true?
5 A. Yeah. You know, I never really thought
6 about their geographic location whatsoever.
7 Q. Okay. So did it ever occur to you that
8 there may be two residences?
9 A. No.
10 Q. Well, if they said they were taking a bus
11 from East L.A., but they took you to their home in
12 El Monte, doesn't that suggest two residences?
13 A. I never thought about it.
14 Q. Well, as you think about it now --
15 A. I was way off. But once they got on the
16 bus, my contact with them ended.
17 MR. MESEREAU: Okay. Okay. No further
18 questions. Thank you.
19 THE WITNESS: All right.
20
21 REDIRECT EXAMINATION
22 BY MR. ZONEN:
23 Q. Mr. Lopez, you understood that the El Monte
24 home was the home that had the cleanroom for Gavin
25 in it; is that correct?
26 A. That's correct.
27 Q. And that was his grandmother's home, the
28 grandparents' home? 3847

A. Right.
Q. Did you ever ask how many people actually lived in that residence?
A. I never asked, but it just looked like maybe five.
Q. And it had been sometime earlier when you were told that they were coming from East L.A. was in conjunction with the kids attending the comedy camp; is that right?
A. Right.
Q. Did you have any reason to believe that wasn't true?
A. No.
Q. Did anybody ever take you to an address -- a studio apartment on Soto Street for purposes of showing you how impoverished they were?
A. No.
Q. Did anybody say anything about a residence on Soto Street for purposes of showing you how impoverished they were?
A. No.
Q. Now, the story about the kids diving into the fountain, was that a story that was given to you by Janet?
A. Yes.
Q. And was that in the presence of her children?
A. They might have been in the room, around the 3848

room, yeah. It was kind of more of a joke than an actual admonishment.
Q. The kids were laughing at the story, weren't they?
A. Yeah.
Q. What was it that she said about it?
A. She said she had taken the kids to the mall, and in the center of the mall there was a fountain that people would throw coins in. And she had turned her back, and when she turned back, all three kids were in the water getting coins.
Q. What did she do?
A. She told them to get out. And, you know, at that time everybody was pointing at the kids, like, "Whose kids are these?" And she told the kids to put the money back.
Q. And they did so?
A. They did.
Q. Did David Arvizo ever explain to you why Janet wasn't in the home (sic)?
A. No.
Q. Did he ever talk to you about her having difficulty with dealing with things?
MR. MESEREAU: Objection. Leading; vague.
THE COURT: Sustained; leading.
Q. BY MR. ZONEN: Were you concerned at the -- what you were finding at the hospital when you found out that Gavin had been visiting with Michael 3849

1 Jackson at his ranch?
2 A. Well, when I went to see Gavin during the
3 day, he was, you know, asleep. He was, you know,
4 tired, really tired and stuff.
5 Q. That was in conjunction with David telling
6 you he was on the phone for hours at a time in the
7 middle of the night?
8 A. Correct.
9 MR. MESEREAU: Objection. Leading; move to
10 strike.
11 THE COURT: Overruled.
12 Q. BY MR. ZONEN: The key chain that Janet gave
13 you, what did she tell you about that key chain?
14 A. You know, I don't really remember much about
15 the key chain other than her giving me this thing,
16 "Thank you." I think it was a -- had a mustard seed
17 in it or something.
18 Q. A little mustard seed amulet?
19 A. Yeah, something like that.
20 Q. Was it a new one or something that she had?
21 A. It was kind of pewter, so it -- it kind of
22 looked old. Pewter stuff looks old.
23 Q. And she told you that was in appreciation
24 for your help?
25 A. Yeah.
26 Q. When she called you and had that
27 conversation about her child being ill, would you
28 have gone to the hospital regardless of whether she 3850

asked you?
MR. MESEREAU: Objection; calls for speculation.
THE COURT: Sustained.
Q. BY MR. ZONEN: What was your intent when she called you and notified you of her child's illness?
A. You know, when I was -- the first time I met the Arvizos at The Laugh Factory, you know, I really enjoyed their company, and the kids were great. And I had a really good time teaching them, and they were fun, you know, so -- and, you know, I'd take them and buy them things after, snacks. And I kind of invested in them, because I saw a lot of myself in their family.
So when I got the call that he wasn't well, you know, I did what any friend would do, is go to the hospital.
Q. You said you were a big fan of Gavin. What do you mean by that?
A. He's a great kid. I mean, he had a lot of spirit. And he was fearless and -- you know, he did little dances and stuff. It was great.
Q. Even when he was asking you to buy things for him at the shopping mall?
A. I don't know if he danced and asked at the same time, but he was always kind of, you know, interesting.
Q. When you said you cut off the family, did 3851

that have anything to do with the rest of the family beyond David?
MR. MESEREAU: Objection. Leading; vague; asked and answered.
MR. ZONEN: It's certainly not asked and answered.
THE COURT: Overruled.
You may answer. Would you want the question read back?
THE WITNESS: Yeah. That would be nice.
Thank you.
(Record read.)
THE WITNESS: It was -- it was everyone in the family. At that time I was only having conversations with David by phone. And when that happened, I never spoke to anyone in the family again.
Q. BY MR. ZONEN: You're saying you cut off everybody in the family?
A. Yes.
Q. But your reason for doing so -- what were your reasons for cutting off the other members of the family besides David?
A. Was, you know, that the guy was aggressively trying to get money from me. And when I cut him off, you know, the rest of the family followed. I wasn't going to talk to Gavin behind his father's back, and -- you know, the altercation we had May 3852

5th, he used that, you know, against me, because I said to him, you know, “I only” -- “I’ve only tried to help you.” And he said, “You’ve helped me?” And at that point, it was just -- you know, kind of the wind went out of my sails.

And then he said, “What am I supposed to tell Gavin?” And I said, “Tell him his father’s an extortionist.”

Q. Was there anything that Davellin, Star or Janet did to contribute to your cutting off the family or your attention?

A. No.

MR. ZONEN: Thank you. No further questions.

MR. MESEREAU: No further questions, Your Honor.

THE COURT: Thank you. You may step down.

THE WITNESS: Thanks.

MR. ZONEN: And we’ll call Ann Lopez to the stand.

THE COURT: Come to the witness stand, please. When you get to the witness stand, remain standing.

Face the clerk over here and raise your right hand.

ANN SERRANO LOPEZ

Having been sworn, testified as follows: 3853

1
2 THE WITNESS: I do.
3 THE CLERK: Please be seated. State and
4 spell your name for the record.
5 THE WITNESS: Ann Serrano Lopez; A-n-n,
6 S-e-r-r-a-n-o; Lopez, L-o-p-e-z.
7 THE CLERK: Thank you.
8 MR. ZONEN: May I proceed?
9 THE COURT: Yes.
10
11 DIRECT EXAMINATION
12 BY MR. ZONEN:
13 Q. I guess my first question is, what is it
14 like being married to George Lopez?
15 A. A lot of fun.
16 Q. And you are married to George Lopez?
17 A. Yes, I am married to George Lopez.
18 Q. Tell me a little bit about yourself. Are
19 you currently working?
20 A. I'm an independent television producer, and
21 a mother, and -- what else would you like to know?
22 Q. You've been married to Mr. Lopez for how
23 long?
24 A. For eleven and a half years.
25 Q. And prior to that, what profession were you
26 in?
27 A. I was a television producer and a casting
28 director. 3854

Q. What does a television producer do? We all know the term. None of us know what they actually do.
A. We find projects to produce. So let's say I would find a property that I would want to make into a movie, and secure a writer, secure the production company that would produce it for me. Secure -- secure the actors. And just make sure the entire production gets off on budget.
Q. You've been married to George Lopez how long?
A. Eleven and a half years.
Q. And you have one child?
A. One child.
Q. At some point in time, did you become aware -- were you aware of the fact that your husband would periodically perform at The Laugh Factory?
A. Oh, yes.
Q. Did you know Jamie Masada?
A. Yes, very well.
Q. Were you ever introduced to the Arvizo family?
A. Only in the hospital after Gavin got ill. I was home with our daughter, so I didn't ever go to the comedy camp.
Q. Did you know that your husband was a mentor to the three children -- 3855

A. Yes, I did.
Q. -- in conjunction with the comedy camp?
A. Yes, I did.
Q. All right. At some point in time, did you become aware that one of those three children had become ill with cancer?
A. Yes. It was around two months after the graduation.
Q. Did you visit with him at the hospital? And "with him," I mean Gavin.
A. Yes, I actually met Gavin in the hospital.
Q. All right. Had you ever had a conversation with Gavin's mother prior to his being stricken with cancer?
A. No.
Q. Did you ever meet her?
A. No.
Q. Did she ever call you prior to that?
A. No.
Q. All right. Have you ever actually met her at any time?
A. No.
Q. All right. So you wouldn't be able to recognize her if you saw her?
A. No.
Q. Okay. Did you ever have any telephone conversations with her at all?
A. Yes. 3856

Q. When did the telephone conversations begin?
A. The first telephone conversation was when Gavin was stricken with cancer. She called our home very distraught, and George spoke to her. And then I got on the phone to comfort her about her sick child.
Q. All right. And did you get on the phone and have a conversation with her at that time?
A. Yes, I did.
Q. And did she tell you the extent of the illness that she was dealing with?
A. Yes. She talked about the cancer.
Q. Did she say anything to you about the description of the cancer that he had, or the diagnosis, or the prognosis?
A. Just that it was very grave; that there was a very large tumor, 10, 11, 12, something like that, pounds in his cavity, and that they were going to have to take out a kidney, I believe, and maybe a spleen; that there were -- you know, it was -- that there was spots on his lung. They had found spots on the lung. So it was, very, very severe.
Q. How often did you go to the hospital?
A. I went less than my husband. Probably six, seven times.
Q. The hospital we're talking about, can you tell us which hospital it is and where?
A. I believe it was Kaiser Permanente. 3857

Q. And do you know where, the location?
A. In Los Angeles, I think, towards downtown.
Q. The Sunset and Vermont hospital facility?
A. That's where it was, uh-huh.
Q. When you got there, or any of the times that you went there, did you ever see Janet?
A. No.
Q. Did you ever talk with her on the telephone while you were at the hospital?
A. Yes. When she would call I would get on the phone and speak to her, and just try to comfort her.
Q. Were those frequent conversations?
A. No. Maybe two or three times.
Q. Okay. How often do you think it was that you visited Gavin at the hospital?
A. Between six and eight times. I'm not sure exactly how many.
Q. Was David there?
A. Always.
Q. All right. Now, David is who?
A. David is Gavin's father.
Q. And his last name?
A. Arvizo.
Q. On each of the times that you were there, he was there?
A. Yes.
Q. Did you go on a -- when you went to the hospital to visit, was it always at a certain time 3858

frame?
A. No.
Q. Would it be at various times during the day?
A. Yes. Sometimes in the afternoon. Sometimes in the evening. It just depended on my husband's schedule.
Q. Did you ask Mr. Arvizo, David Arvizo, where his wife was?
A. Yes, I did.
Q. And what did he tell you?
A. He told me that she was just distraught; that she couldn't handle being there at the hospital; that she would break down; and that she emotionally couldn't handle it.
Q. Did you have concerns about that?
A. Yes, I did.
Q. Did you have conversations with David Arvizo about his financial state?
A. He had conversations with me about his financial state.
Q. And tell me the distinction.
A. Well, he would hint that they were having financial problems, and would tell me he wasn't sure how they were going to pay their bills or how they were going to pay the rent.
Also, he told me that they were living in a studio apartment, and he didn't know how he was going to get Gavin's hospital bed and how Gavin 3859

could go back to that place.
Q. This is early on, I. Assume?
A. The very first visit.
Q. Okay. Did you know where they were living,
where their residence was?
A. No.
Q. Did you ever go to visit them at his home?
A. No.
Q. Or did you go to visit Gavin at the time
that Gavin was out of the hospital in a residence?
A. No.
Q. So you don't know necessarily where they
were living?
A. No.
Q. All right. What did you think about his
initial comment on that first visit about his
financial state? What did you understand was going
on?
A. Well, it seemed to me that, you know, they
were a lower income family. He was taking a leave
of absence from his job. He told me that. And he
said that one of them had to work to make money for
the family.
And I found it a little strange that it
would be Janet because he said that she was a
waitress. And I thought, well, a waitress doesn't
make as much as he was making. And he was also --
he had told me his job was the job that had medical 3860

care, the medical insurance.
Q. Did he tell you any -- did he express
concern to you about his medical insurance?
A. No.
Q. Did he have any conversation with you at all
about who was paying the bills?
A. No, he just said it was covering the
expenses and that his job covered the medical
insurance.
It wasn't until one of the later visits that
he said he was worried that the insurance was going
to run out. And I told him "Then, well, you should
go back to work."
Q. Did he tell you that he was concerned the
insurance would run out because he was not at work?
A. Yes, because his leave of absence was
already very long, and he -- if he didn't go back to
work, then the medical insurance would lapse.
Q. What did you tell him?
A. I told him he should go back to work and get
on with it, and get his insurance for his son; that
that was the most important thing, that his son was
covered with medical insurance.
Q. At some point in time, did you make a
decision, perhaps with your husband or by yourself,
as to whether or not the Lopez family would be
contributing money from your own pockets to David
Arvizo? 3861

A. Yes.
Q. And what was that decision?
A. No.
Q. Had you talked with David about that specifically?
A. No. I just -- from the very beginning, I saw things that just seemed very strange to me. I didn't know them at all. This was the first meeting. David and I walked -- let George have some time with Gavin the first meeting and be in the room. And there was like a glass partition. So David and I stepped out and we were talking. And, you know, at first it was very normal. He was very concerned about his son and the medical attention. But when he walked back into the room, I noticed that the children shied away from him. And there was no -- there was no closeness, there was no touching. I didn't see anything that would indicate that there was a bond between these children and their father, especially at such a difficult time. And then when he told me that Janet was not going -- was not going to be at the hospital, I also found that -- being a mother, I found that very strange. Here was this woman that would take the bus to take her three children to comedy camp for months on end, but she can't be at the hospital with her sick child. That just seemed very strange to me. So I thought there was something a little off 3862

there.
Q. Did you ever have David Arvizo and any of his children at your home?
A. Yes, we did.
Q. On more than one occasion?
A. Just once.
Q. And when was that; do you recall?
A. It was -- I'm not sure exactly the time frame. I was home with my daughter who was very young. But it was one time when George wanted to visit him in the hospital, and David was -- I mean, excuse me, Gavin was out of the hospital. And so George said, "Is it okay if we bring him to our house?" And I said, "Sure." So they came and visited.
Q. And you were living where at the time?
A. In Sherman Oaks.
Q. That's not where you live currently?
A. No.
Q. All right. When he came to your household, what did you do that day?
A. David and Gavin -- George went and picked up David and Gavin and brought them to our home. And we have a very large swing set in the back, and they were playing on the swing set, and meeting my daughter, and Gavin.
Q. Gavin was how old at the time?
A. Ten and a half. Between 10 and 11. I'm not 3863

sure.
Q. Okay. Go ahead.
A. And it was a hot day. So I said to George,
“You know, maybe we should” -- I didn’t feel it was
very good for him to be in the heat. And I said,
“Well, maybe we should just go take them to eat and
maybe just go see a movie or something.”
So we took them to Pizza Hut, and he and my
daughter played video games, and we had pizza. And
then we took them to the mall.
Q. Okay. What did you notice about anyone’s
behavior at the mall, either David or Gavin?
A. Well, Gavin was running in and out of stores
like -- you know, we were going into stores and
things, and buying him some toys and things like
that.
By it got to be a little overboard where he
was asking for, like, three or four toys at every
store. And I kept looking over at David, and David
would just walk away, like -- you know, and -- which
made it -- you know, he wasn’t saying anything to
Gavin like, “Okay, Gavin, that’s enough,” trying to
rein him in at any point. I mean, it was like he
definitely walked away and, you know, made us feel
like, “Okay, buy him what he wants.” So....
Q. Give me a sense of how long after you
received that initial call about Gavin’s illness did
this visit occur to your home and to the shopping 3864

mall.
A. Oooh, I'm not sure exactly, but about six months, I would think.
Q. Was Gavin doing better at that time?
A. Yes.
Q. Was he still involved in treatment?
A. Oh, yes.
Q. But at the time that he was visiting you, he was --
A. He was in remission, yes.
Q. He was in remission at that point and able to walk around?
A. Uh-huh.
Q. Did he appear to you to be still frail or --
A. Yes, that's why I didn't want him to be in the heat. He was walking around, but he still was very pale. He didn't have any hair. He was still a very sick boy.
Q. When you got home after the visit to the shopping mall, and Gavin and David left, did you notice anything in the house?
A. I did not. I just went straight to the kitchen. I started to get -- started to prepare dinner. And when George came home, I heard him say, "Hey, what's this?" And I walked into the living room, which we barely used, and there was a wallet on the mantle. And I said, "Well, open it, and find out what it is." 3865

1 And it was, you know, a velcro -- normal
2 little velcro wallet, and it was Gavin's school I.D.
3 and there was a crisp $50 bill in it, and we just
4 thought that was rather strange that there would be
5 a $50 bill in a ten-year-old child's wallet.
6 Q. What did you do with the wallet?
7 A. I told George, "Well, I'm going to call and
8 just send it back to them."
9 Q. And did you do that?
10 A. Yes.
11 Q. Okay. How did you send it back?
12 A. I think Federal Express. Just sent it back
13 so that they would get it the very next day, because
14 I figured he needed the money.
15 Q. And the $50 bill was, of course, still in
16 the wallet at the time you sent it back?
17 A. Yes. Uh-huh.
18 Q. On that visit to the Sherman Oaks mall, was
19 there anybody else there from the Arvizo family
20 besides Gavin and David?
21 A. No.
22 Q. Did you ever have occasion to meet Gavin's
23 brother or sister?
24 A. Oh, yes, at the hospital.
25 Q. So they were there visiting on a few
26 different occasions?
27 A. Uh-huh. They were almost always there.
28 Q. When you went to the shopping mall, did you 3866

tell Gavin, prior to going over there, that you would buy him something?
A. No.
Q. Did --
A. It was really a last-minute thing. We had actually thought of going to the movies, and there wasn't a movie playing, so we just decided to walk around the mall.
Q. All right.
A. We knew we would buy him something, you know, a toy or something.
Q. Now, did you ever get a phone call back from David Arvizo with regards to the wallet at any time?
A. No.
Q. Was there ever a subsequent conversation from David, whether it was a phone call or in person, where the subject of that conversation was the wallet?
A. No.
Q. At some point in time, did you hear from anybody with regards to an issue of money missing from the wallet?
A. The way we found out about that was about a month after we stopped having any contact with David, I called Jamie Masada for a completely different reason. I just needed a business number. And, you know, we were talking. He gave me the number I needed, and he said, "Listen, by the 3867

way, I want you to know that" -- "remember that wallet?" And I said, "Yes." And he said, "Well," you know, "David said that the wallet was empty when it was returned." And I said, "Jamie, it had $50 in it."

And he's like, "Well, he says there was $300 in it, and that it was empty when it was returned."

And I was just like, "Jamie, do you really think we would steal $300 from this child that we've been trying to help?" And he said, "No, I know you didn't do it. But I gave him the $300 just to get him off my back."

And I offered to reimburse Jamie $300. And he said, "No, absolutely not. Don't worry about it." I was like, "Are you sure?" And he was like, "Yeah, just don't worry about it."

Q. Did you have any additional conversations with David Arvizo after your conversation with Jamie?

A. No.

Q. In other words, at the point where you learned that Jamie had been -- had given $300 --

A. No.

Q. -- to Mr. Arvizo, no further conversations?

A. No.

Q. Were you ever working on a fund-raiser on behalf of Gavin?

A. Yes. 3868

Q. Tell us when that was, in terms of -- give us a sense of around the time that you did your shopping spree at the Sherman Oaks mall. Was it during that time? Before that?
A. It was right after that, around there. David was getting more frequent with his hints about needing money. And I said to George, you know, "Let's just go ahead and do our own fund-raiser for him at The Ice House," which is another comedy club in Pasadena, "and that way we'll just get him off our back."
Q. Have you done fund-raisers before?
A. Oh, yes. Many.
Q. That's not unusual for a celebrity like your husband to end up being invited to do a fund-raiser?
A. Oh, no. We get asked to do many more than we possibly can do.
Q. And you have done many --
A. Yes.
Q. -- over the years?
A. Many. Many.
Q. What's involved in putting on a fund-raiser like this?
A. We usually contact one of the comedy clubs and one of the owners, who -- they're all our friends. And you usually do a fund-raiser on a Monday night, which is a slow night for the club. And the door -- the ticket price, which you can set 3869

any ticket price you want, will go to your fund-raiser. And then the drinks and food will go to the comedy club. So it's kind of a win-win for both parties.
Q. Were you working with David Arvizo in putting this together?
A. No, I was doing it myself.
Q. Were you having conversations with David Arvizo about what was happening in pursuit of this fund-raiser?
A. Oh, yes. He was really hounding me, calling me and asking me a lot of questions.
Q. And tell us, give us a sense of it. I mean, how often was he calling, and what was he asking?
A. He was calling me like every other day and asking me how much money could be raised. And it was just -- you know, he wanted to know how much money, how much money can be raised. And I told him I thought we could raise probably between seven and $14,000, which was actually quite a bit for a Monday night fund-raiser. But my husband had gotten permission to announce it on the radio station that he was working at at the time.
Q. Was his behavior, David Arvizo's behavior, different than what you would expect of people for whom you were doing fund-raisers?
A. He made me very suspicious, because I had never done a fund-raiser where someone had asked me 3870

how much money was involved. I mean, usually people are just so grateful that you're helping them. And so this was very strange, and I got very suspicious.
Q. Did you finally decide to have a conversation with him that dealt specifically with where the money was going to go?
A. Well, what I did, was I decided to test him, and I told George what I was going to do. I said, "You know, this is" -- I just started feeling very uneasy. And I said, "You know, there's something strange here. I want to test him to make sure that his intentions are honorable."
And so what I did was, I called him up on the phone and I said, "Well, David, I just wanted to let you know, the fund-raiser is going to be at such and such a time, such and such a date, and I need to start getting your bills. You know, I need to get the name of your landlord, I need to get your credit card bills, your gas bills, so we can start paying them."
And he became, you know, a little like, "What do you mean? Aren't I just going to get the cash?" And I said, "No, we can, like, pre-pay your rent for six months. We can pay your bills." I said, "No, that's not how it works."
And he said, "Well, some people that I owe money to, I just owe them money." And I said, "Give me their names so we can pay them." And he got very 3871

1 agitated. And I said, “Well, listen, this is” --
2 you know, “The radio station is involved, and that’s
3 the way it has to be handled, because they need to
4 have documentation.”
5 And then he got very angry at me.
6 Q. All right. You say he got angry at you.
7 How did he manifest that anger? What did he do?
8 What did he say?
9 A. He cursed at me.
10 Q. What did he say? I know this is a little
11 embarrassing, but what did he say?
12 A. He called me a fucking bitch and a
13 mother-fucking whore, and that’s when I hung up the
14 phone.
15 Q. Was he angry while he was saying this?
16 A. Oh, he was irate. His whole demeanor
17 changed.
18 Q. And loud?
19 A. Oh, yeah, it was -- he frightened me. I was
20 shaking when I hung up the phone.
21 Q. Did he ever present like that to you before,
22 prior to that date?
23 A. No.
24 Q. Either in person or on the telephone?
25 A. No.
26 Q. And you were frightened by that?
27 A. Uh-huh.
28 Q. What did you do after that telephone call? 3872

A. I immediately picked up the phone and called my husband at the radio station.
Q. And you discussed with him what had happened; is that correct?
A. Yes.
Q. Was the decision made not to engage in any more conduct with Mr. Arvizo?
A. Yes. George was very angry. And really our suspicions are true, were true. I mean, they came to light that he was just wanting money maybe for some other reason, and it wasn't going to go to the bills. So we decided that the fund-raiser was off, we weren't going to do it, and that was it.
Q. How many conversations do you think -- telephone conversations do you think you had with Janet Arvizo?
A. Probably four at the most. Four or five.
Q. During any of those conversations that you had with her, did she ever ask you for assistance?
A. No.
Q. Did she ever ask you for money?
A. No.
Q. Did she ever behave in any way inappropriate, in your mind?
A. No.
MR. ZONEN: Thank you. I have no further questions.
THE COURT: Cross-examine? 3873

CROSS-EXAMINATION
BY MR. MESEREAU:
Q. Good afternoon, Miss Lopez.
A. Good afternoon.
Q. My name is Tom Mesereau and I speak for Michael Jackson.
You thought it very odd that Janet was never at the hospital while her son was apparently dying, right?
A. Yes.
Q. And you noted to your husband how strange that was, right?
A. Yes.
Q. And you didn't quite believe that she was never there because she was waiting tables, true?
A. Yes.
Q. Did you know at the time she was litigating a sexual assault case with J.C. Penney?
MR. ZONEN: I'm going to object as assuming facts not in evidence and argumentative.
THE COURT: Sustained as to assuming facts not in evidence.
Q. BY MR. MESEREAU: Did you ever know anything about any litigation Janet Arvizo was involved in with anybody?
A. No. No.
Q. Did David or Janet ever talk to you about their litigation with any company or individual? 3874

A. No.
Q. Now, you learned that Janet brought her children to the comedy camp from East Los Angeles, correct?
A. Yes.
Q. Did you ever visit their home?
A. No.
Q. Okay. Did you ever talk to your husband about where he thought their home was located?
A. No.
Q. Okay. Okay. You did learn at some point that he visited them in El Monte, correct?
A. Yes.
Q. Okay. But you never were there?
A. No. He went to pick them up.
Q. Okay.
A. Well, Gavin and David.
Q. When you spoke to Janet on the phone, did you ever know where she was calling you from?
A. No.
Q. Did she ever mention where she was?
A. No.
Q. Okay. When you talked to Janet, did you ever ask her why “You’re not visiting your dying son”?
A. Well, the first conversation I had with Janet was at our home, and it was just comforting, and I hadn’t been to the hospital yet. But every 3875

1 other conversation David was there, so, no, I did
2 not.
3 Q. Okay. Did Janet ever visit your home?
4 A. No.
5 Q. Now, to your knowledge, did the three Arvizo
6 children visit your home with David?
7 A. No. Just one. Gavin.
8 Q. Just Gavin? And how many times did he visit
9 your home, if you remember?
10 A. Just once.
11 Q. Okay. And that's the time where suddenly
12 this wallet appeared on a mantle?
13 A. Yes, sir.
14 Q. And about how high was the mantle, if you
15 remember?
16 A. Probably -- let's see, it wasn't as tall as
17 I was. Probably five feet.
18 Q. Okay. And do you remember seeing the wallet
19 there?
20 A. I don't, because I went directly into the
21 kitchen.
22 Q. Okay. And you don't recall ever meeting
23 Janet in person, correct?
24 A. I don't.
25 Q. Did you visit the hospital at different
26 times or did you typically visit at the same time of
27 day?
28 A. No, different times, just depending on my 3876

husband’s schedule.
Q. Okay. And you thought you visited about six times, right?
A. Uh-huh.
Q. You thought your husband visited about 12 times, right?
A. I’m not sure how many times he visited. Sometimes he would go after his shift, without me.
Q. Okay. Okay. And you’re not sure if you’ve ever met Janet in person, right?
A. I don’t recall ever meeting her.
Q. Were you ever at The Laugh Factory when she was there with her children?
A. No, I never went to the comedy camp.
Q. Okay. Now, you did know that your husband was teaching the children, right?
A. Yes, I did. He spoke about them.
Q. Did he talk to you about what they did on stage?
A. Oh, yes. He thought they were very talented, especially Gavin.
Q. Did he talk to you about Gavin’s skit where he would talk about how impoverished they were on stage?
A. He didn’t go into specifics, no.
Q. Was it your understanding the mother would always be there watching the kids talk about their paverty on the stage? 3877

A. Yes.
MR. ZONEN: Objection, speculation. She wasn't there.
THE COURT: Overruled. The answer was, "Yes."
Q. BY MR. MESEREAU: You indicated that when David told you that Janet was working as a waitress and couldn't be at the hospital, that red flags went up, correct?
A. Well, more that she was -- not because she was working as a waitress. I think the red flags went up that she was emotional, and the hospital would make her overcome and she couldn't handle it. That, I thought, was a little strange.
Q. Thought it was a little odd.
A. Uh-huh.
Q. You thought that even with the emotional difficulty, a mother would likely be at the hospital with her dying son?
A. Absolutely.
Q. And you never saw her there one time?
A. No.
Q. Okay. Now, you described David as business-like, correct?
A. No.
Q. Did you tell the sheriffs he had a certain robotic and business-like demeanor about him?
A. I don't believe I said "business-like." 3878

Robotic, maybe. He was very unemotional.
Q. Okay. And you didn't think his behavior was consistent with a father whose son was seriously ill, right?
A. Yes.
Q. But you always saw him there every time you went to the hospital, right?
A. Yes.
Q. Okay. Okay. So basically at that point, you thought both parents' behavior seemed like something was off, true?
A. Yes.
Q. But David -- excuse me. Let me rephrase that.
How many times did you talk to David on the phone, do you think?
A. I'm not sure how many. He called me quite a bit when the fund-raiser -- but I really would see him more at the hospital, or the time that he came to our home.
Q. And David told you that Jamie Masada was helping him out financially, correct?
A. Yes, he did.
Q. And immediately when you met him, he began to sort of hint that he needed money, right?
A. Yes.
Q. You noticed that pretty quickly, didn't you?
A. Yes. 3879

Q. It went from sort of hints to direct requests at some point, right?
A. You know, I think he -- he always skirted the issue with me, because I think he knew that I wasn't really biting.
Q. Okay. You weren't -- you weren't what?
A. Biting --
Q. Okay.
A. -- at his hints.
Q. When you didn't bite, did he seem to persist?
A. He would, but I wasn't biting.
Q. Okay. Was it your impression he began to work more on your husband than you at some point to get funds?
A. Probably, yes. I mean, there were many times I wasn't there, so I can't say.
Q. Now, you told him at one point he needed to go back to work and take care of his family, correct?
A. Yes.
Q. And did he ever respond to that, that you remember?
A. He didn't say anything, but his body language, he got very, like, agitated, like, oh, he didn't like that I said that.
Q. At this time you're suspicious as to whether his wife is really working, correct? 3880

A. No.
Q. Did you know?
A. I didn't know.
Q. Do you know if she was working?
A. I didn't know.
Q. You didn't know one way or the other, right?
A. No.
Q. Okay. You thought David was using Gavin and his other children as a tool to seek money, right?
A. I thought -- yes, I did.
Q. Okay. And you always seemed to anticipate that another hint at money was forthcoming when you were with him, right?
A. Well, he always did it, so I kind of started to expect it.
Q. Okay. Now, you told the sheriffs that during your phone conversations with Janet, she always seemed to be very grateful, right?
A. Yes.
Q. Very grateful for what you and your husband had done for the family, true?
A. Yes.
Q. Did you talk to her periodically?
A. I'm sorry. Now?
Q. Did you talk to Janet periodically -- no, no, at the time -- at the time you were interacting with the Arvizos.
A. Uh-huh. 3881

Q. Let me narrow that better.
A. Sorry.
Q. At the time you were either visiting Gavin in the hospital or they were visiting your house, you would talk to Janet once in a while, correct?
A. At the hospital. Only if she called the hospital.
Q. Okay.
A. Yeah.
Q. Now, while you were visiting the hospital, did you know your husband was giving David money from time to time?
A. Yes, just, you know, out of his pocket.
Q. Okay.
A. You know, 20, 40, $60, something like that.
Q. Right. And Janet would call you from time to time and express her gratitude for all you did for the family, right?
A. Only -- I would only speak to her at the hospital, if she happened to call at the hospital. She never called me at home, except the first time to tell us that Gavin was ill.
Q. Okay. Okay. Were you in the mall when Gavin kept asking your husband to buy gifts for him?
A. Oh, yes.
Q. You were there too, right?
A. Yes.
Q. And how many shops do you think you went 3882

into?
A. Four or five.
Q. Okay. And as far as you recall, did Gavin ask your husband to buy him gifts in every shop?
A. Yes.
Q. Okay. And what kind of shops did you go into?
A. Into, like, the Discovery Store. There was a toy store there at that time. There were, actually, I think, two toy stores at that time that have since closed. And I think we went into another, like, shoe store or something like that.
Q. And did you find it odd that Gavin would keep asking you to buy gifts for him and the husband would stand -- excuse me, the father would stand there silent?
A. I didn't find it odd that Gavin would ask for things. My daughter does the same thing. She asks for toys in every store she goes to.
Q. What about the father?
A. The father walking away and/or not putting some kind of cap on it I thought was kind of strange.
Q. Did Gavin typically ask your husband or you to buy him gifts?
A. Whichever one was nearest.
Q. He didn't seem to ask his father to buy him gifts? 3883

A. No.
Q. Did it appear to you he was almost prepped to do this, to go up to you and George to ask you to buy his gifts for him as opposed to going up to his father?
A. I don't have any opinion on that. To me, kids do that, so that behavior didn't seem strange to me. It was just David always walking away, out of the store, like, "Okay, go ahead and buy him the gifts."
Q. What about the son never asking the father to buy him anything, did you find that strange?
A. No, because we didn't think they had any money, so --
Q. Okay. You didn't know, though, did you?
A. Know what?
Q. You didn't really know how much money they had, did you?
A. I didn't know anything about them, other than what my husband told me.
Q. Did you know whether or not someone named Louise Palanker had given them 20,000 bucks?
A. No.
Q. Knew nothing about that?
A. I had never met her. Didn't know her.
Q. Did you know anything about Louise giving Janet a check for $10,000?
MR. ZONEN: I'm going to object; assuming 3884

1 facts not in evidence, and irrelevant.
2 THE COURT: Sustained; foundation.
3 Q. BY MR. MESEREAU: Do you know comedian Chris
4 Tucker?
5 A. I know who he is. I've never met him.
6 Q. So you never talked to him about the Arvizos
7 and his experiences?
8 A. No.
9 Q. All right. Now, at some point, you learned
10 that the Arvizo family were visiting Neverland,
11 correct?
12 A. Yes.
13 Q. When did you learn the Arvizo family were
14 visiting Neverland?
15 A. One day when we went to visit Gavin at the
16 hospital, he had already been to Neverland.
17 Q. Okay. And did he seem excited about
18 Neverland?
19 A. Oh, over the top.
20 Q. Okay. Did his father talk to you about
21 Neverland?
22 A. That's all they talked about.
23 Q. Did his father talk to you about the fact
24 Michael Jackson had given a truck to the family?
25 A. Yes.
26 Q. And did Gavin talk about the fact that
27 Michael Jackson had given a truck to the family?
28 A. Yes. 3885

Q. Did you ever hear him discuss that Michael Jackson had given a computer to the family?
A. I don't remember the computer, but I do remember the car.
Q. Did they talk about other gifts that Michael Jackson had given the family, to your knowledge?
A. They just talked about the whole experience. They were very -- you know, the movie theater, and the candy, and golf carts, and things like that.
Q. Okay. Did you notice David's attitude towards you change after he started visiting Michael Jackson?
A. Oh, yes.
Q. And what was the change all about?
A. Well, all of a sudden, we -- our friendship to Gavin was not as important as them being at Neverland.
Q. Okay.
A. It just seemed like a shift; that George's time and compassion for Gavin wasn't as important anymore.
Q. Okay. And that bothered you?
A. Yeah.
Q. Okay. Did you ever discuss that with David or Janet?
A. No.
Q. Now, did you learn at some point after you had severed your relationship with the Arvizos that 3886

Janet had met with your husband to give him a good
luck charm in gratitude for all you had done?
A. I knew about that before. It was a little
key chain.
Q. Okay. Do you know about when that happened?
A. I don't remember.
Q. Okay. Ever talk to Janet about her
experiences at Neverland?
A. No.
Q. Okay. But you noticed a change in attitude
in Gavin and David, right?
A. Yes, and the two other children.
Q. All of them?
A. All of them, yes.
Q. They just didn't seem to be as interested in
you and George anymore, right?
A. Well, it was just such a fantastic,
over-the-top kind of experience.
Q. And they kept talking about how much Michael
had given them, correct?
A. Yes.
Q. Did you get the feeling they were sort of
suggesting that maybe you didn't give them enough?
A. Maybe, yeah.
Q. Okay. Did they talk about gifts that
Michael Jackson had sent to the hospital for Gavin?
MR. ZONEN: I'll object as to vague as to
"they." 3887

MR. MESEREAU: Excuse me, I'll rephrase it.
Q. Did Gavin ever talk to you about gifts
Michael Jackson had sent to him at the hospital?
A. No.
Q. Did David ever talk about that?
A. I think there was a basket, but I don't
remember what was in the basket. They pointed to a
basket -- well, David pointed to a basket, but I
can't remember what was in it.
Q. Okay. Okay. And Gavin kept talking to you
about driving golf carts at Neverland, correct?
A. Yes.
Q. They seemed to -- he seemed to be very
excited by that?
A. Yes.
Q. And did David tell you they were going to
keep visiting Neverland?
A. I don't think so. I don't think that came
up in the conversation.
Q. Did he tell you about numerous visits they
had made to Neverland?
A. The one that sticks out in my mind is the
first one.
Q. Okay. Now, did you talk to David on the
phone about Neverland, or in person?
A. In person at the hospital.
Q. At the hospital, okay. Okay.
And it was your understanding that Gavin was 3888

going back and forth to the hospital for treatment?
A. Oh, yes.
Q. And was it your understanding that while he was in the middle of his treatments, he and the family went to Neverland? Is that your understanding?
A. I believe it was one of the weeks that he was feeling better and he was in remission.
Q. Okay. Okay.
A. Because he was having chemotherapy. And there were times when he felt better, and right after the treatments, he would feel very bad.
Q. You recall your husband going to El Monte and picking up David and his children, true?
A. No, just David and Gavin.
Q. Okay. And when do you recall your husband going to El Monte and picking up David and Gavin?
A. That was when they came to our house, but I'm not sure exactly when, the month or --
Q. Okay. You described to the sheriffs that it was a hot day, right?
A. Yes.
Q. And how did you remember that?
A. Because David was -- I mean -- "David." I'm sorry, Gavin was still ill, and I remember being concerned that he shouldn't be outside in his condition when it was hot.
Q. And about what time of day did you first see 3889

David and Gavin on that occasion?
A. I think they came to our house around noon.
Q. Okay.
A. I think.
Q. Now, did you know your husband George was buying gifts for Gavin and bringing them to the hospital?
A. I bought them also, yes.
Q. And did David express gratitude to you for doing that?
A. Yes.
Q. Did Gavin?
A. Yes.
Q. Did Janet?
A. She wasn't there, no.
Q. Okay. When you talked to her on the phone, though, she expressed gratitude for all you'd done for her family, right?
A. But not really -- more spiritually than -- being there with Gavin than financially, no.
Q. Okay. Now, you were trying to arrange a benefit in Pasadena, correct?
A. Yes. Yes.
Q. And that was a club that George had appeared at, correct?
A. Yeah, he kind of considers that his home club. That's where he started, and it's one of his favorite clubs. 3890

Q. And you told David -- correct me if I'm
wrong, you told David that you thought you could
raise between seven and $14,000, right?
A. Yes.
Q. And what was his reaction to that?
A. He was very happy.
Q. Okay. You don't know what David was doing
with the money he was given by George, do you?
A. No, but it was never a lot of money. It was
always, you know, money to buy lunch or to -- gas
money. It wasn't anything -- it was always less
than $100. It wasn't something --
Q. Right. But you don't know what he was doing
with that?
A. No, we did not.
Q. You had suspicions, didn't you?
A. No, I -- not about that.
Q. Didn't you have suspicions about the fact
that he wasn't working, Janet may not be working?
A. Right.
Q. You didn't know where the money was going,
right?
A. I was concerned that the family was working
on a waitress's -- I mean, living on a waitress's
wages, yes.
Q. But you never asked her what restaurant she
was working at, right?
A. No. 3891

Q. She never told you where she was waiting tables, correct?
A. No. Our conversations were always more, "Thank you for being with Gavin," things like that.
Q. When did you ask David to provide you with a list of his creditors?
A. In -- I think it was in April, near when the fund-raiser was going to be.
Q. And your desire was to control where the money went, correct?
A. Well, I wanted to test him, really. It wasn't to control. I wanted to make sure -- if we were going to actually do this and put ourselves out, then I wanted to make sure that the money was going somewhere, and I didn't trust that it was.
Q. And did you believe that Gavin didn't have medical insurance at the time?
A. No, he told me that he did.
Q. Okay. Did he tell you at some point it was going to lapse?
A. If he didn't go back to work.
Q. Okay. So what did you think the money was going to be raised for?
A. To pay their rent, to pay their bills, their electric bill. Things of that nature.
Q. Did you learn that they were raising money from any other people at the same time?
MR. ZONEN: I'm going to object as to 3892

1 “they”; vague.
2 MR. MESEREAU: I’ll rephrase it.
3 Q. Do you know whether or not Janet was trying
4 to raise money from any other comedian at the same
5 time?
6 A. No.
7 Q. Do you know whether or not Janet was asking
8 Chris Tucker for any support at that time?
9 A. No.
10 Q. Okay. Do you know whether Janet was asking
11 Chris Tucker’s fiancee for a car at that time?
12 A. No.
13 Q. Okay. Do you know whether any efforts were
14 made to get money from Michael Jackson at the time?
15 A. No.
16 Q. All right. Did you know Fritz Coleman at
17 the time?
18 A. Yes.
19 Q. Did you know whether or not Fritz Coleman
20 had ever visited the Arvizo home?
21 A. No.
22 Q. Okay. And did you -- did you have any
23 knowledge of Fritz Coleman being involved with a
24 fund-raiser for the Arvizos?
25 A. I do now. At the time, I had kind of
26 forgotten about that fund-raiser, because when I
27 think of a fund-raiser, I think about the one that I
28 was planning that never came -- you know, came to 3893

1 be. But I've heard since then that there was a
2 fund-raiser that Fritz did.
3 Q. And in your discussions with Janet, did she
4 ever tell you that she had come across a large sum
5 of money in a civil settlement?
6 A. No.
7 Q. She never mentioned 150,000 to you?
8 A. No.
9 Q. You told David you wanted to raise money and
10 actually pay their rent directly; is that correct?
11 A. Yes.
12 Q. And did you discuss where -- excuse me. Did
13 you discuss what you would pay the rent for, what
14 residence?
15 A. I assumed it was the studio apartment.
16 That's the only residence that -- I knew the
17 grandmother had a home, but I meant their residence.
18 Q. And you hadn't been there, correct?
19 A. No.
20 Q. To your knowledge, your husband had not been
21 there either, right?
22 A. No.
23 Q. He'd been to El Monte?
24 A. Yes.
25 Q. Okay. And David said something to you like,
26 "I want cash"; is that correct?
27 A. Well, yes, when I asked -- when I told him
28 that I needed his bills, he said, "Well, I thought I 3894

1 was just going to get the cash." And I said, "Oh,
2 no, that's not how it works."
3 Q. He didn't like that, did he?
4 A. No.
5 Q. Okay.
6 THE COURT: Counsel, let's take our break.
7 (Recess taken.)
8 THE COURT: Go ahead, Counsel.
9 MR. MESEREAU: Thank you, Your Honor. Just
10 a couple more questions.
11 Q. At some point did you learn that the Arvizos
12 had divorced?
13 A. No, not until recently.
14 Q. Okay. And was it your understanding that
15 Janet had applied for welfare?
16 A. I didn't know that.
17 Q. And did you ever learn that she applied for
18 disability?
19 A. No.
20 Q. And you never knew she'd obtained a big
21 settlement of any kind?
22 MR. ZONEN: I'm going to object as asked and
23 answered, irrelevant.
24 THE COURT: Sustained.
25 Q. BY MR. MESEREAU: Okay. When did you last
26 see the Arvizos?
27 A. Let's see, probably in the hospital. I
28 don't really recall. 3895

Q. Okay. Did the visit to your home happen
after Gavin was in the hospital or in the middle?
A. Kind of in the middle. His treatment was
like a year long.
Q. Okay. And do you remember the last time you
talked to Janet?
A. In the hospital.
Q. Okay. Not at your home?
A. No.
Q. Okay. Now, obviously you learned about your
husband's strong disagreement with David, correct?
A. Uh-huh.
Q. You knew that David was calling the radio
station, correct?
A. Yes.
Q. And at some point you basically severed all
ties with the Arvizo family, correct?
A. Yes.
Q. And did you ever see them after that?
A. No.
Q. Ever talk to them after that?
A. No.
Q. Okay. Now, did you ever discuss any
fund-raising plans with anyone else at The Laugh
Factory?
A. No. We were going to do the fund-raiser at
The Ice House.
Q. Okay. Did you ever get involved in any 3896

efforts with The Laugh Factory to have a fund-raiser?
A. I still don't remember that fund-raiser.
Q. Did you ever talk to Fritz Coleman about a fund-raiser for Gavin?
A. No.
Q. Okay. And you were planning the one in Pasadena, correct?
A. Yes.
Q. And were you planning it mostly with David?
A. No, myself.
Q. Okay. Were you talking to the children at all about that?
A. No.
Q. About whatever role they would play in it?
A. No.
Q. Okay. And did you get to the point where you were actually doing invitations?
A. No. We were going to announce it on the radio. The way it works is, usually you -- the way we were going to do this one was George was going to announce it on the radio station, and then -- the price and the time, and then The Laugh -- I'm sorry, The Ice House was going to take the reservations.
Q. How -- did you ever know at any time whether or not Fritz Coleman had made announcements about another fund-raiser for the Arvizos?
A. Yes, I think there was a fund-raiser, but we 3897

1 weren't involved in that one.
2 Q. You didn't communicate with anybody about
3 that?
4 A. No.
5 Q. So yours was separate and apart from
6 anything that The Laugh Factory was having?
7 A. Yes.
8 MR. MESEREAU: Okay. No further questions.
9 THE COURT: Redirect?
10
11 REDIRECT EXAMINATION
12 BY MR. ZONEN:
13 Q. Ms. Lopez, you said that you thought that
14 Janet's gratitude was spiritual. What did you mean
15 by that?
16 A. Well, she just said -- she said she was
17 praying for us and thanking us for being with Gavin,
18 and for giving him comfort and giving him hope and
19 making him stronger spiritually by being at his
20 bedside.
21 Q. Did she ever say anything to you about money
22 that had been given to David by your husband?
23 A. No.
24 Q. Did she ever say anything at all about any
25 of the gifts to the family at all?
26 A. No.
27 Q. Did she ever talk to you about that gift
28 that she gave to your husband, the key chain? 3898

A. I thanked her for it, because it meant a lot to George.
Q. Could you describe the gift for us?
A. It's a -- it's a small key chain. It has a mustard seed in it, and she said that she had had it for -- it was obviously used, and that she'd had it for a long time and she just wanted him to have it.
Q. And he accepted it?
A. Yes, he did.
Q. And was grateful for it?
A. Yes.
Q. You made the statement that you thought the kids were a tool for David, or something like that?
A. I'm sorry?
Q. Were a tool of David?
A. Yes.
Q. Tell me what you meant.
A. Well, it just seemed he didn't have a connection with his children. And to me, it seemed like he was using Gavin's illness for gain, financial gain.
Q. Did you notice any change in David's behavior as the months went by while Gavin was in the hospital receiving treatment?
A. Well, he just kept asking for money. I mean, it was just kind of his M.O.
Q. It was consistent?
A. Consistent. 3899

Q. Every time you were there?
A. Yes.
MR. ZONEN: I have no further questions.
MR. MESEREAU: No further questions, Your Honor.
THE COURT: Thank you. You may step down.
MR. NICOLA: Your Honor, we'll be re-calling Sergeant Bob Spinner.
THE COURT: All right.
MR. NICOLA: And I would ask permission to reopen my direct. I think my near fatal accident on Friday jarred my thinking process. I was traumatized.
THE COURT: You may be seated. You're still under oath.

ROBERT SPINNER
Having been previously sworn, resumed the stand and testified further as follows:

THE COURT: Did you discuss that with counsel, so they know what -- why you've asked me to do that?
MR. SANGER: I don't know why. I was just informed he wanted to do it.
MR. NICOLA: I did tell Mr. Sanger this morning at the same time that we talked about calling Mr. Lopez out of order, perhaps. 3900

THE COURT: Would you tell him so he knows?
I don't want -- I just want you to know in
case you're --
MR. SANGER: I don't know. Could we have a
moment so I can find out?
THE COURT: Yes. Please do.
(Off-the-record discussion held at counsel
table.)
MR. SANGER: If the question -- if the
question is -- if the question is, do I now know I
have the general subject matter, and I have no
ability to form an opinion as to whether or not it's
appropriate to reopen based on what I was just told.
THE COURT: All right. Go ahead.
MR. NICOLA: Thank you, Your Honor.

DIRECT EXAMINATION (Reopened)
BY MR. NICOLA:
Q. Detective Spinner, on Friday, you mentioned
a series of 19 fingerprints that you made positive
identifications on. I'd like to talk to you
specifically about the items that are marked in the
317 series of sheriff's evidence that you testified
you had made identifications on.
When you examined those items in the 317
series, did all the items that you identified
fingerprints on arrive at the same time?
A. No, they did not. 3901

Q. Would you explain that for the jury, please?
A. When I was first assigned the job, I went to the property room to obtain Items 306 and 317, which were the two initial item numbers. I was told, when I got Item 306, that 317 was not available, and it would be available at a later date.
I was advised on August the 3rd that the 317 that had been -- or part of 317, which had been at the DOJ for laboratory for analysis, was back, and I went out and got it.
I was later advised that there were a number -- the remainder of 317 was brought to the forensics lab. When I came back to work on October the 5th, it was locked in the cabinet in the forensics lab and the remainder was in the black briefcase.
Q. So you got one portion of it in August?
A. Yes, sir.
MR. NICOLA: May I approach the witness, Your Honor?
THE COURT: Yes.
MR. NICOLA: Marked as 622.
MR. SANGER: Your Honor, I am going to object that this is not proper to reopen. It's basically material that's covered, and it's elaboration on something that he brought up in redirect.
MR. NICOLA: May we approach, Your Honor, so 3902

1 we do not --
2 THE COURT: No. I've already given you
3 permission to reopen. Proceed.
4 MR. NICOLA: Thank you.
5 Q. I've placed in front of you Exhibit 622. Is
6 that 622?
7 A. Yes, sir, it is.
8 Q. Okay.
9 MR. NICOLA: May I use your copy, please?
10 MR. SANGER: Okay.
11 Q. BY MR. NICOLA: I'm just going to hold it
12 up. It appears to be nothing more than a couple of
13 timelines, correct?
14 MR. SANGER: I suppose that's not
15 appropriate to publish it until it's an exhibit.
16 MR. NICOLA: There's really nothing on this.
17 MR. SANGER: There is something on it.
18 THE COURT: Counsel, you're required --
19 MR. NICOLA: It is just a couple of
20 timelines.
21 THE COURT: Counsel, you're required to mark
22 the exhibit, show it to opposing counsel, and then
23 show it to the witness without publishing.
24 MR. NICOLA: I understand. I apologize,
25 Judge.
26 Q. BY MR. NICOLA: What is on 622?
27 A. It appears to be two timelines for the year
28 2004, and one for a brown evidence bag, 529, and for 3903

a black briefcase, 470.
Q. Okay. Do you recognize Exhibit 470?
A. Yes, I do.
Q. And do you recognize Exhibit 529?
A. Yes, I do.
Q. Beginning with Exhibit 529, can you please open the package up, and how do you recognize that exhibit?
A. This is the evidence bag which I received the first grouping of items which were booked into evidence under Sheriff's Evidence Item No. 3-1-7, or 317.
Q. Okay. On Exhibit 622, can you please note on the timeline?
A. Do you want me to write that down?
Q. Please write the date that you first opened that bag on the timeline, and on which date --
THE COURT: Has that timeline been marked as an exhibit?
MR. NICOLA: It's Exhibit 622, Your Honor.
THE COURT: Is that Exhibit 622?
MR. NICOLA: Yes.
THE COURT: Go ahead.
Q. BY MR. NICOLA: Tell the jury what you just wrote.
A. 8-3 of '04.
Q. And that's Exhibit No. 529?
A. Yes, sir. 3904

Q. Okay. Can you tell the jury, please, which items from Exhibit 529 were items that you were later able to make positive identifications of fingerprints in?
A. It would have been 317, L, Lincoln; 317-R, Robert; 317-S, Sam; and 317-YY, or yellow-yellow.
Q. Do you have a list of the names of those publications?
A. Yes, I do.
Q. Okay. Can we start again, please, with the 317-L with a name?
A. 317-L is December 2000 issue of a magazine entitled “Finally Legal.”
Q. Okay. And whose fingerprints were in that magazine?
A. Star Arvizo.
Q. Was there another magazine that was in 529 that you made positive identifications of fingerprints out of?
A. Excuse me for one minute.
317-R, Robert.
Q. And the name of that magazine, please?
A. Is Hustler’s “Barely Legal Hardcore.”
Q. Could you tell the jury which fingerprints you were able to positively identify in that item, please?
A. Three fingerprints from Gavin Arvizo, and one fingerprint from Mr. Jackson. 3905

Q. Just for the record, is 317-L - you're too
fast - Exhibit 513?
A. Yes, sir, it is.
Q. And for the record, is 317-R Exhibit 518?
A. Yes, it is.
Q. You mentioned a couple of other
publications?
A. 317-S, Sam, which was an unknown date issue
of Penthouse magazine with the cover removed.
Q. For the record, is that Exhibit 519?
A. Yes, it is.
Q. Was there another publication that you
recovered positive fingerprints from which were
contained in Exhibit 529?
A. 317-YY, yellow-yellow.
Q. And that was?
A. The name of that was "Al Goldstein's 100
Best Adult Videos."
Q. And whose fingerprints did you recover in
that?
A. Gavin Arvizo.
Q. And does that appear to be Exhibit No. 504?
A. Yes, it does.
Q. I'll let you package that up before I ask
some more questions, okay? Don't put that away yet.
Are each of the publications that you have
just described for the jury marked on the front of
Exhibit No. 529? 3906

A. Yes, they are.
Q. Okay. Are there additional items denoted by 317 followed by a letter of the alphabet written on Exhibit 529? You don't have to read the list.
A. Yes, there are.
Q. And at the time that you received Exhibit 529, did you conduct an inventory of what was inside the bag compared to what was written on the exterior of the bag?
A. Yes, I did.
Q. Did you find any item missing?
A. No.
Q. Okay. Did you find any item inside the bag that was not accounted for on the outside of the bag by item number?
A. No, I did not.
Q. Okay. Could you tell the jury, please, what date you began processing Exhibit No. 317-L? And "processing," I mean the procedure that you described for us on Friday.
A. Okay. I started -- I obtained the items on 8-3 and we started the processing on 8-11.
Q. Could you mark that, please, on your Exhibit 622? Is it legible?
A. Yes, sir.
Q. Are you using a pen now?
A. Yes, sir.
Q. Okay. With respect to Exhibit 317-R, Item 3907

317-R, the Exhibit No. 518, could you tell the jury, please, when you began processing that item?
A. The same day, 8-11, August 11th.
Q. Would you please put that on the timeline as well?
Does the same hold true for Items 317-S, Exhibit 519, and 317-YY, Exhibit 504?
A. No, 317, Sam, and 317-YY were started on 8-12.
Q. On August 12th --
A. Yes.
Q. -- of 2004? Could you put those two items on the timeline as well with the date that you began processing them, please?
Just remember we'll have to read that later.
A. You've seen my writing.
Q. You mentioned that you did not have Exhibit 470, the black briefcase, at the time that you had Exhibit 529?
A. That's correct.
Q. When were you able to take custody of the black briefcase, Exhibit 470, and check through the contents?
A. On 10-5 of '04.
Q. On October 5th of 2004?
A. Correct.
Q. Do you know where the briefcase had been prior to that time? 3908

A. I was told it had been --
MR. SANGER: Calls for hearsay, objection.
THE COURT: Sustained.
Q. BY MR. NICOLA: Do you want to look at the briefcase now or do you need to?
A. No, I don't need to. It's got seals on it.
Q. Okay. Did you find fingerprints for which you made a positive identification on any publications that you removed from Exhibit 470, the black briefcase?
A. Yes. On three.
Q. Could you please tell the jury on which magazines those were, publications, I mean?
A. 317-ocean, O, which was -- it was a "Barely Legal" magazine.
317-T, Tom, which was a "Visions of Fantasy, A Hard-Rock Affair" magazine.
And 317-union, which was a "Visions of Fantasy, Jose's Black Starlett" magazine.
Q. Okay. Beginning with Exhibit 515, Item 317-O, whose prints did you find in that again?
A. It was Mr. Jackson's.
Q. And Item 317-T, Exhibit 520?
A. Mr. Jackson's.
Q. And Item 317-U, which is Exhibit 521?
A. Would have been Gavin Arvizo.
Q. And on which page of that publication was that print located? 3909

MR. SANGER: Your Honor, this is cumulative.
It's been asked and answered.
THE WITNESS: Page --
THE COURT: Yeah, what is it that you didn't
do last week that you're doing now?
MR. NICOLA: Just this last part of the
timeline, Judge. Didn't ask him any questions about
dates of processing, or when he received the
material.
THE COURT: Well, let's limit it to the
dates, then, and not go through the rep -- whose
prints are on what. You covered all that last week.
Q. BY MR. NICOLA: With respect to those three
items, what date did you process them, if they were
all on the same day?
A. On 317-O, I started processing on October
the 5th, and it was completed on October the 12th.
Q. Okay. Could you please put that on the
timeline?
How about Exhibit 520, 317-T?
A. On 317-T, again obtained on October 5, and
completed on October 12.
Q. Can you please write that on the timeline as
well, Exhibit 622? And how about Exhibit 521,
Exhibit 317 -- Item 317-U?
A. 317-U, again initially obtained on 10 -- or
October the 5th, and it was completed on October the
12th. 3910

Q. And could you write that on the timeline as well?
At this time, Your Honor, I'd move 622 into evidence and request permission to publish.
MR. SANGER: Before the Court rules, could I take a look at it, please?
THE COURT: Yes.
MR. SANGER: May I approach to do that?
THE COURT: Yes, you may.
MR. NICOLA: Would you mind bringing it back, if you're amenable?
MR. SANGER: Counsel's asked me to bring it back, so if that's all right, I'll do that.
MR. NICOLA: Save me a trip.
(Laughter.)
MR. ZONEN: A trip.
THE BAILIFF: It's on.
MR. NICOLA: It's on?
THE BAILIFF: It should have been, unless somebody turned it off.
THE COURT: What input do you need?
MR. NICOLA: I believe that is "Input 4," Your Honor. The Elmo.
Q. BY MR. NICOLA: Does -- Exhibit 622, does that exhibit accurately reflect the items of evidence you were able to find identifiable fingerprints from and the dates that you processed them? 3911

A. Yes, sir.
Q. And it also accounts for the items of evidence from which those publications came from?
A. Yes, sir.
Q. Did you process any of -- any magazine or periodicals that came to you for fingerprint comparison in the month of September that you recall?
A. I was gone for the -- for at least three weeks in September on a trip, and I don't believe I did much processing of anything in September. I might have done something at the tail end of September, but I can't recall.
Q. Okay. Generally what was the success ratio in checking for fingerprints in these magazines, periodicals?
MR. SANGER: Objection. First of all, the question is vague as to which set of magazines. But secondly, that's cumulative. The overall question has been asked and answered with specific numbers.
MR. NICOLA: I'm not sure that has, Your Honor.
THE COURT: I don't know what you mean by "success ratio." I think we covered that last week.
MR. NICOLA: Okay.
THE COURT: But I don't know what you mean by that, so I'll sustain a foundation objection.
Q. BY MR. NICOLA: Regarding your ability to 3912

1 locate latent prints on the kinds of materials that
2 are in front of you, the 317 series, if -- if you
3 can explain in a percentage, only if you can, please
4 describe for the Court what kind of percentage ratio
5 you can successfully find latent prints on these
6 kinds of items, if you know?
7 MR. SANGER: Objection, foundation. And
8 it's unintelligible.
9 THE COURT: Sustained on foundation.
10 Q. BY MR. NICOLA: Why don't we move on.
11 Were you concerned about contamination of
12 the fingerprints in this case?
13 MR. SANGER: Objection, Your Honor. This is
14 beyond the offer to reopen.
15 THE COURT: Sustained.
16 MR. NICOLA: I have no further questions,
17 Your Honor.
18 THE COURT: 622's admitted.
19 MR. NICOLA: Thank you, Your Honor.
20 Do you need those exhibits or....
21 MR. SANGER: Just leave them. That's fine.
22 May I proceed, Your Honor?
23 THE COURT: Yes.
24
25 CROSS-EXAMINATION
26 BY MR. SANGER:
27 Q. Sergeant Spinner, how are you?
28 A. I'm fine, sir. 3913

Q. Good. And you're retired?
A. Yes, sir, I think so.
Q. Okay. Not for a little while anyway.
First of all, when you talk about -- when
you answer the district attorney's questions as to
whose fingerprints are on something, that's your
opinion; is that correct?
A. That's correct.
Q. And fingerprint identification is
subjective; is that right?
A. It falls into two categories. The initial
examination and evaluation I would say is based in
fact. The opinion is subjective.
Q. All right. So ultimately your opinion --
this is what I was asking, I believe. Ultimately
your opinion as to whose fingerprints match is a
subjective opinion, correct?
A. That would be correct.
Q. All right. Now, you indicated -- in this
last bit of testimony this afternoon, you indicated
that, in essence, you received materials with regard
to Item No. 317 from two different locations, right?
A. Two different times.
Q. Well, okay. Two different times. They were
from two different bags, right?
A. That's correct, sir.
Q. All right. One bag you told us about there
was Exhibit 529, which was an evidence bag, right? 3914

A. That's correct.
Q. And the other was the briefcase, which was
actually 470, Exhibit 470, court exhibit?
A. Yes, sir.
Q. And within 470 were a group of magazines,
correct?
A. Among other items, yes, sir.
Q. And some loose pages as well?
A. That's correct.
Q. And those materials were simply in the
briefcase, right?
A. Correct.
Q. They were not separately put into plastic
bags or envelopes or anything else; is that right?
A. Not till I got ahold of it, yes, sir.
Q. I'm talking about when you received it,
those items were not put into separate evidence
containers, whether it be a plastic bag, a paper bag
or some other form, correct?
A. That's correct.
Q. Now, you located ultimately 19 fingerprints
that you've talked to the jury about, and we have
the comparison boards there; is that correct?
That's the right number?
A. That's correct.
Q. Ten of the prints, including at least one
that you attribute to Gavin Arvizo, came from items
other than the bag, 529, that you believe came from 3915

the Department of Justice; is that correct?
A. I haven't totaled it up, but, yeah, I'll take your word for it.
Q. I don't want you to take my word for it. Is that approximately correct? Or you can total it up, if you'd like.
A. It would be approximately correct, yes, sir.
Q. All right. And at least one of the prints from Gavin Arvizo came from something other than Evidence Bag 529; is that correct?
A. Correct.
MR. NICOLA: Objection. Misstates the evidence, Your Honor. The evidence is one, not "at least one."
MR. SANGER: Objection; speaking objections.
THE COURT: Sustained. The objection's overruled.
Q. BY MR. SANGER: Is that correct, sir? Is that correct?
He may have answered. I don't know if the answer came in.
THE COURT: He said, "Correct."
MR. SANGER: Okay. Thank you.
Q. Now, there were also two other prints that had been identified either as positive or inconclusive, and those two were switched or shifted at a date after your initial reports were written; is that correct? 3916

A. Yes, sir. After a review by a third party, yes, sir. That's correct.
Q. Let's talk about those two for a moment. You wrote final reports on the various latent print examinations that you did on a certain date in December; is that correct?
A. As the item process -- each item was finished, I had a mandate to complete a report within 24 hours of completing each item as I went, so it would -- when the report was written would depend on when the total completion date on that item was -- actually happened.
Q. I'm sorry.
A. Go ahead.
Q. What I'm asking, and maybe I wasn't clear, as of December of 2004, you had final reports written on your identification of the various prints; is that correct?
A. December the 17th, yes, sir.
Q. All right. And then these two prints were subject to additional reports that you wrote sometime in 2005; is that correct?
A. Yes, sir, that's correct. That was due to an agreement that --
MR. SANGER: I'm going to move to strike as nonresponsive.
THE WITNESS: Okay. That's correct, sir.
THE COURT: Stricken. 3917

MR. SANGER: Thank you.
Q. One of the prints had been labeled as inconclusive as of December 2004; is that correct?
A. That's correct.
Q. And then in January of 2005, you wrote a report indicating that you believed that that should be positive as to Star Arvizo; is that correct?
A. Yes, sir, that's correct.
Q. The other print had been written up, as of December 2004, as inconclusive -- I'm sorry, as positive as to Mr. Jackson, and then you changed that to inconclusive; is that correct?
A. That's correct.
Q. And that was based on additional consultation that you had?
A. Yes, with Mrs. Hemman and also I.D. Tech Allmeyer of the Santa Barbara Police Department.
Q. And I.D. Tech Allmeyer is somebody that you've known for a number of years; is that correct?
A. Yes, sir, it is.
Q. And he worked for the sheriff's department for quite some time?
A. I'm going to guess about four years before he went to another job.
Q. So that was not a stranger who you called upon to do a review of the work; is that correct?
A. No, but I trust his judgment.
Q. All right. Now, you indicated last week 3918

that you had examined about 80,000 prints in your career as a latent print examiner; is that correct?
A. That's an approximation, yes, sir.
Q. 21,000 of them were in this case, correct?
A. Approximately, yes, sir, probably close to that.
Q. So over one quarter of your experience in comparing latent prints in cases occurred in the Michael Jackson investigation; is that correct?
A. It may be -- 80,000 may be slightly low. It could be -- it's -- to say the examination I've done just in this case alone is one quarter of my total experience I don't think is true.
Q. Okay. So you want to revise the number upward from 80,000?
A. I would say it would be in the -- maybe the 100 to 120 figure. Probably not much more than that.
Q. Okay. So a fifth -- if those figures are correct, a fifth to a sixth of the prints that you've examined in your career have been in Mr. Jackson's case; is that correct?
A. That may be close, yes, sir. It was a large amount that we did all at once.
Q. All right. Now, you found 706 latent prints in this case that -- when I say "you found" -- let me withdraw that.
The people in the unit who you were working 3919

1 with ultimately found 706 latent prints?
2 A. That's the number we were sent, yes, sir.
3 Q. Okay. So when you say "sent," there were
4 people in the Santa Barbara unit and there were
5 people in the Santa Maria unit that were sending you
6 prints?
7 A. They were providing us prints to examine,
8 yes, sir.
9 Q. All right. So 706 of them, right?
10 A. Correct. At my count, yes.
11 Q. And you matched up 20 or so?
12 A. There were 19 positive I.D.s out of that
13 amount, yes.
14 Q. 19 as you testify today, but you had another
15 positive I.D. that you changed back to inconclusive;
16 is that correct?
17 A. Yes, sir, it is.
18 Q. That's why I say 20.
19 A. Yes, sir, 20.
20 Q. Of the 706 prints, there were 178 that you
21 believe were sufficient to make a match if you had
22 something to match it to; is that correct?
23 A. That's correct. Part of those were palm
24 prints, and they weren't all fingerprints. I
25 believe there was 13 palms mixed in that number.
26 Q. Okay.
27 A. If my memory serves me correctly.
28 Q. All right. So 165 fingerprints and 13 palm 3920

prints?
A. It sounds close, yes.
Q. You were asked to compare these fingerprints only -- and palm prints, for that matter, only to the prints that were presented to you for Mr. Jackson and for Gavin Arvizo and for Star Arvizo; is that correct?
A. Yes, we had a complete set of fingerprints for Gavin and Star Arvizo, but I only had exemplar fingerprints for Mr. Jackson.
Q. I'm sorry, say that -- what did you say?
A. I had no palm prints for Mr. Jackson.
Q. I see. So you just had fingerprints for Mr. Jackson?
A. That's correct.
Q. All right. Now -- let me walk in between everybody here. Excuse me.
May I approach, Your Honor? I'm sorry.
THE COURT: Yes.
Q. BY MR. SANGER: Let me show you 743, 744 and 745. And I believe that you had already said on direct examination that those are, in essence, blow-ups of the other prints that are in evidence; is that correct?
A. That's correct, sir.
Q. Now, two of those are rolled prints, inked prints; is that correct?
A. Yes, sir. 3921

Q. And one is the Livescan, which is a digital film -- I don't want to say "digital film," but a digital representation of the prints; is that correct?
A. That's correct.
Q. And how many sets of fingerprints did you have for Star and Gavin Arvizo to work from?
A. We had two sets of each.
Q. Okay. Now, for some reason you've just shown us -- or let me withdraw that.
The prosecutor has shown you and you have identified one set of prints for each one, correct?
MR. NICOLA: Objection. Misstates the actual exhibit boards. I'd like counsel to be specific here, or it's vague.
THE COURT: Just a moment. The objection's overruled.
Q. BY MR. SANGER: Do you have both sets of rolled prints on each exhibit there?
A. One set of prints for Star Arvizo has two cards on it, and the one for Gavin Arvizo has one.
Q. Okay. Was there another set of rolled prints for Gavin Arvizo that you're aware of?
A. Yes. But if my memory serves me correct, they were not -- they really weren't any good.
Q. And so those -- you had those redone? Did you have those redone?
A. They were redone at my request, yes, sir. 3922

Q. Did you also have Star Arvizo's prints redone?
A. Yes, sir.
Q. And you wanted to see if a better set of prints could be developed?
A. That's correct, sir.
Q. Did you believe at the time you looked at it that Mr. Jackson's prints were done appropriately?
A. They could have been done better, but they're appropriate, yes.
Q. Okay. And the same -- well, let me withdraw that. As far as Star Arvizo's, his first set was done appropriately but could have been better. Would that be your testimony?
A. His first set was okay, but they could have been better. As I recall, there was some smearing and areas that really couldn't be seen into as far as the clarity.
Q. Okay. Now, we're talking about the known prints or the rolled prints, as they're usually called, of the particular subjects, right?
A. Yes, sir.
Q. Okay. And one of them being Livescan, but what do you refer to them all as collectively? Known prints?
A. I call them exemplar prints.
Q. Exemplar prints, all right. And the idea is that if you do not have a good example in your 3923

exemplar prints, it makes it more difficult to determine whether or not a print, a latent print, is identifiable; is that correct?
A. You have to have -- yes, sir, it is. You have to have the same clarity to be able to see the detail in the known print that you have identified in the latent print.
Q. What sorts of things can cause known -- known prints or exemplar prints to be imperfect?
A. Deposition pressure. Torquing. When the print's rolled, sometimes the tip will roll faster than the base and you'll get some smearing going on.
Q. Imperfections in the paper?
A. Normally imperfections in the paper, that the card stock that's used is what's supplied by the state or the FBI, and it's pretty common, standard, and we don't get that much problem. It's a hard cardboard-type paper and it doesn't twist or bend.
Q. It doesn't twist or bend, but occasionally something will not show up on the print?
A. There might be an area that's blank. That would be deposition pressure.
Q. So in other words, there wasn't enough pressure put on the -- on the finger to apply it to the cardboard in order to transfer the ink?
A. That could be. Or it wasn't inked properly, if ink was used.
Q. Okay. So the finger was not inked properly; 3924

therefore, there was not ink on that part of the finger to make the imprint on the paper, correct?
A. That would -- that's a loose definition, yes.
Q. Okay. Well, I don't want to be too loose. Is that close enough?
A. Or there was a blank spot, or there was a bubble, or there was some other reason why there was a -- not a total recording of the friction ridge skin.
Q. You talk about torquing. Is that turning the fingers so there's a smudge or a smear or a distortion?
A. Yes, sir.
Q. All right. Are there any other -- in rolled ink prints, are there any other causes that you're aware of of deformation in the print?
A. Well, you could have too much pressure also, which will cause the ridges to be wider when they wouldn't normally be, or they will normally either hide some detail because the ridge is flattened out.
Q. Too much ink might just cause a blot?
A. Too much ink might just cause some pressure, yes.
Q. Now, what about the Livescan prints that you have of Mr. Jackson? Can you tell me what deficiencies there are in those particular prints?
A. They're a little scattered, possibly because 3925

his hands were dry when they were rolled.
Q. So not all of the detail was actually transferred to the digital format; is that correct?
A. Not all of it in some areas, like below the base of the thumb, shows up, and why it's not there I don't want to hazard a guess.
Q. Okay. So in other words, there should be more there -- if it was done properly, there would be more of a print, more ridge detail?
A. It would depend on, again, how the prints were rolled and who did it, and how much care was taken, et cetera, et cetera, with the Livescan, because you're not actually using ink. You're relying on moisture, a glass platen, which is then read by the machine to record the prints.
Q. Would you agree, based on your experience, that properly rolled ink prints are a better exemplar than Livescan?
A. Correct.
Q. Livescan, however, is used because it's more convenient; is that correct?
A. I don't know that "convenience" would be the proper word, but it's an overall method to get the fingerprints transferred back and forth, since it's just a digital, for the Department of Justice purposes rather than mailing inked cards.
Q. It's a little hard to hear. It's the end of the day, and I think you're trailing off. 3926

A. I'll move closer.
Q. In other words, Livescan is simply a way to get it directly into a computer system so you can make a disk or send it by e-mail, you can send it off to the DOJ, to the FBI, correct?
A. It's a -- yes, sir, it's a quicker way of getting a set of inked -- rolled ink -- rolled fingerprints for identification.
Q. One of the reasons it's good to have rolled -- we're going back to rolled, which I kind of like. You said exemplar prints, so let's stick with that. We covered Livescan and inked prints, right?
A. Yes, sir. That's correct.
Q. So it's important to have a good set of exemplar prints so that you can look, as an examiner, to see if ridge detail matches ridge detail from the latent print to the exemplar print, correct?
A. That's correct.
Q. You also need to look at the exemplar print, when comparing it to the latent print, in order to determine if there are any unexplained differences between the two; is that correct?
A. Well, you compare the two, latent to known, known to latent, and then you have to work out the discrepancies between the two, yes.
Q. All right. 3927

THE COURT: Counsel, I'd like to stop a little early, because there's a couple issues we need to take up outside the presence of the jury.
MR. SANGER: Yes, sir.
THE COURT: I'm going to excuse you now. We'll see you at 8:30 tomorrow morning. And remember, Thursday you won't come in.

(The following proceedings were held in open court outside the presence and hearing of the jury:)

THE COURT: We need that door closed back there.
THE BAILIFF: I'll get it.
THE WITNESS: He took care of it, sir.
THE COURT: Let's see, the first issue I wanted to take up was whether or not -- the question of whether or not we should instruct the jury on the 1108 and perhaps 1101 evidence before, at the time of taking the evidence, during, after. I like to instruct juries on special points as we go along. I don't know when you intend to start your 1108 evidence, now that the ruling's been made. And you don't need to -- since I'm just putting that to you right now, you don't need to answer me now. I'd like to know tomorrow. And if you have a suggested instruction, I think there's a -- there might be a 3928

CALJIC that applies. I haven't looked. Anyway --
MR. SNEDDON: Yes, I believe they should be preinstructed. And yes, there is a CALJIC that's been approved by the courts to be given in such situations.
THE COURT: All right.
MR. SNEDDON: And I would anticipate maybe in two weeks, depending on the length of cross-examination of certain witnesses.
THE COURT: So that gives everybody time if you want to submit a different instruction or a pinpoint instruction or....
MR. MESEREAU: We'd want to do that, Your Honor. There is some -- for example, burden of proof we think should wait till the end, but there are some preinstructions we would like on that issue.
THE COURT: I just put you on notice so you can start feeding me information. That gives me -- I can relax a little bit, because I know we have time to do this right.
MR. MESEREAU: Thank you.
THE COURT: The second issue is there's a -- one of the -- one of the witnesses who's testified, Kiki Fournier, has called my secretary. And as I understand from my secretary, has contacted both attorneys and she has requested permission to travel outside the United States with her child, or 3929

children, I don't know. And she advised my secretary that she could not get agreement from the attorneys on her ability to do that. She's willing to be on a return call for 48 hours if someone needs her. So I need to get your position.
I think she's basically testified and been cross-examined. I don't think she's been excused technically, but I don't like to prevent people from going on with their lives when we can make arrangements to allow them to go on with their lives and still be available when they're needed.
What's --
MR. SNEDDON: Judge, I indicated that that was more than okay with me, that she could go. I anticipated that if we would want to re-call her, we would still have time, because we probably would not have rested by the date she plans on returning, so therefore it shouldn't be a concern in terms of the defense calling her, because she would be available if they wanted to.
So as far as I'm concerned, she could do that. If an emergency arose, and we need her to come back, it sounds like she's willing to come back and we would arrange that. So as far as I'm concerned, she can go and should go.
MR. MESEREAU: Your Honor, I don't want to interfere with her travel plans at all. Our concern is there is a great likelihood we will re-call her 3930

for a lot of reasons I don't want to disclose at the present.
THE COURT: Nor do you need to.
MR. MESEREAU: It seems to me that her plans -- I don't know where she's going or when she plans to leave. But her plans are to be back in the near future, is that correct?
THE COURT: Within -- within 28 days, I think. And I think she plans to leave immediately. You probably know more than I do. My secretary just said we have a problem here, and --
MR. SNEDDON: I can assist the Court and Mr. Mesereau in this regard, Your Honor. My information is she needed to book the tickets today. She was going to leave immediately and she'd be back the first week in May.
THE COURT: So that's more than the estimated time I thought. But at any rate, if you're not going to put on your 1108 evidence for two more weeks, I can see that -- it seems to me that's a safe return date for her.
MR. MESEREAU: Yeah.
THE COURT: Okay.
MR. MESEREAU: Again, I don't want to interfere with her plans.
THE COURT: I would require that she sign a statement like -- she's on subpoena, and it's not uncommon. In fact, it's more common than not that 3931

we put these people on call, under an agreement, and the code section provides for that. And I would have her sign an agreement to return upon 48 hours' notice if there was an emergency before her return date.
And then I would personally go to Europe and get her if she --
MR. MESEREAU: We will agree to that, Your Honor.
THE COURT: All right. Even if it took me months to find her.
(Laughter.)
THE COURT: I think it's the right thing to do, so I appreciate that. I'll take care of that.
Then I think we're through for the day.
Thank you, everyone. I'll see you tomorrow at 8:30.
(The proceedings adjourned at 2:35 p.m.)
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REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

I, MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304, Official Court Reporter, do hereby certify:

That the foregoing pages 3792 through 3932 contain a true and correct transcript of the proceedings had in the within and above-entitled matter as by me taken down in shorthand writing at said proceedings on March 28, 2005, and thereafter reduced to typewriting by computer-aided transcription under my direction.

DATED: Santa Maria, California, March 28, 2005.

MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304